

SEVENTY-FOURTH DAY

(Tuesday, May 24, 1977)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

A quorum was announced present.

Senator Kent Hance offered the invocation as follows:

Let us pray. Our Dear Heavenly Father, we thank Thee for the many blessings You have bestowed upon us. May we always be grateful for those blessings. Go with and direct the Members of the Senate, the press, and all the other fine people of the State of Texas. We ask this in Christ's name and for His sake. Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

REPORTS OF STANDING COMMITTEES

Senator Aikin submitted the following report for the Committee on Finance:

H.B. 190

Senator Brooks submitted the following report for the Committee on Human Resources:

H.B. 670

Senator Moore submitted the following report for the Committee on State Affairs:

S.R.	349	H.B.	144
S.R.	684	H.B.	617
H.B.	1517	H.B.	1796
H.B.	1908	H.B.	2036
H.B.	1700	H.B.	42
H.B.	1396	H.B.	436
S.B.	753	S.B.	869
H.B.	416	H.B.	2228
H.B.	890	H.B.	971
H.B.	1008	C.S.S.B.	556 (Read first time)
H.B.	447		

MESSAGE FROM THE HOUSE

House Chamber
May 24, 1977

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 914, Relating to the creation of municipal courts in Sweetwater. (With substitute)

S.B. 1057, Giving County Courts at Law Nos. 1 and 2 of Lubbock County probate jurisdiction concurrent with the county court.

S.B. 549, Relating to disposition of fees and charges collected for certain driving licenses.

S.B. 1283, Identifying the Klein Independent School District.

S.B. 1286, Relating to fees, bonds, and insurance of liquified petroleum gas dealers.

S.B. 1294, Relating to confidentiality of certain tax information.

S.B. 1300, Transferring the East Texas Chest Hospital to the University of Texas System. (With amendments)

S.B. 66, Relating to power of a court to grant independent administration of a decedent's estate. (With amendments)

S.B. 836, Relating to certain rights of handicapped persons.

S.B. 930, Relating to the venue of consumer contract suits in justice courts.

S.B. 1064, Creating the office of county budget officer in certain counties. (With amendment)

S.B. 1226, Relating to accessibility of information held by certain governmental bodies. (With amendment)

S.B. 1231, Relating to the requirement for an election to change certain ordinances in incorporated or annexed territory.

S.B. 1232, Validating the consolidation of certain cities.

S.B. 209, Relating to consent of either parent to autopsy.

S.B. 481, Relating to preventing execution of civil process.

S.B. 631, Relating to the authority of a corporation to make a guaranty.

- S.B. 661**, Relating to violation by banks of legal loan limit.
- S.B. 690**, Relating to liability of a surety or a personal representative under the Probate Code.
- S.B. 791**, Relating to refusal of benefits under a will or inheritance.
- S.B. 851**, Relating to licenses to practice podiatry.
- S.B. 858**, Relating to weekly workmen's compensation benefits.
- S.B. 119**, Relating to the Municipal Court of Records of Wichita Falls.
- S.B. 215**, Relating to persons who may be general and limited partners. (With amendments)
- S.B. 429**, Relating to workmen's compensation benefits when employee was recruited in this state. (With amendment)
- S.B. 438**, Relating to subrogation rights of cities to employees right to recovery for personal injuries.
- S.B. 522**, Relating to creation of Probate Court No. 3 of Harris County. (With amendment)
- S.B. 605**, Relating to reimbursement of retailers for sales taxes paid on transactions involving bad checks or debts.
- S.B. 750**, Relating to distribution of audit reports of institutions of higher education. (With amendment)
- H.B. 407**, Exempting from sales tax sales of emergency medical equipment and vehicles by volunteer fire department.
- H.B. 1232**, Providing for recordation of the fact that a person has completed an approved driver education course.
- H.B. 1412**, Relating to the authority of the city council in certain cities to set compensation and expenses of elected officials.
- H.B. 1550**, Relating to refunding of city electric revenue bonds.
- H.B. 1845**, Providing for a postcard application for absentee ballot with the postage paid by the state.
- H.B. 2255**, Authorizing MHMR to sell and convey certain land in Cherokee County.
- H.B. 1976**, Relating to the acceptance of checks by a tax collector for fees and taxes.
- H.B. 2258**, Relating to boundary changes of the Fort Worth Independent School District.

H.B. 524, Extending statutes of limitations when period ends on Saturday, Sunday, or holiday.

H.C.R. 31, Memorializing Congress to propose constitutional amendment to require U.S. to have a balanced budget.

H.B. 1721, Relating to liability insurance for county officers and employees.

H.B. 1837, Relating to certain traffic regulations involving pedestrians.

H.B. 2257, Relating to a plea of not guilty to a Class C misdemeanor.

H.B. 649, Exempting certain fire departments from certain vehicle registration fees.

H.B. 2240, Relating to the qualifications for guardians who read and write languages other than English.

H.B. 1061, Extending the coverage of the financial disclosure law to judges of county courts and other statutory courts.

H.B. 1778, Relating to the preservation of public records.

H.B. 2259, Relating to the open season for quail in Jim Hogg County.

H.B. 2253, Relating to compensation of judges in Tarrant County.

H.B. 2238, Authorizing municipal courts of record in city of Fort Worth.

H.B. 2236, Relating to election of trustees of the Fort Worth Independent School District.

H.B. 2196, Relating to compensation of members of the Nueces County Juvenile Board.

H.B. 2233, Relating to the resubdivision of a lot.

H.B. 2154, Relating to the compensation of members of the juvenile boards in certain counties.

H.B. 912, Validating certain unenforceable tax levies.

H.B. 905, Relating to return of stolen property to rightful owner when no criminal trial is pending.

H.B. 807, Relating to district clerks' fees.

H.B. 955, Relating to a state close-up program.

The House refused to concur in Senate amendments to House Bill No. 117 and has requested the appointment of a Conference Committee to consider the differences between the two houses.

House conferees: Willis, Bird, Waters, Wallace, Simpson.

H.C.R. No. 177, Commending Madrigal Singers of Westlake High School on Selection by Friendship Ambassadors, Inc., to give concerts in Romania and Bulgaria.

H.C.R. No. 155, Granting L. Wallace Christophersen permission to sue the state.

H.B. 686, Relating to the use of county equipment for soil conservation work on private property; repealing Chapter 53, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 2372c, Vernon's Texas Civil Statutes).

H.B. 1799, The Texas Energy Development Act of 1977.

H.B. 672, Creating a Capital Surplus Fund.

H.B. 515, Changing the criminal judicial districts of Dallas, Tarrant, and Jefferson counties to regular numbered judicial districts.

H.B. 1551, Relating to the compensation of judges of the 23rd and 130th District Courts.

H.B. 2067, Relating to withholding warrants to persons owing delinquent state taxes.

H.B. 2223, Relating to fees for directors of the Benbrook Sewer and Water Authority.

H.B. 1580, Relating to rehabilitation districts for handicapped scholastics.

H.B. 2028, Relating to power of a city to implement tax-increment financing.

H.B. 2243, Creating the Burleson County Hospital District.

S.B. 1137, Relating to the amendment of Section 3.70-1 (c) of the Insurance Code; and declaring an emergency. (With amendment)

S.B. 1213, Creating the County Court at Law No. 2 of McLennan County. (With amendments)

S.B. 569, Creating the County Civil Courts at Law of Harris County. (With amendment)

S.B. 936, Relating to claims for excess proceeds of sale for delinquent taxes. (With amendment)

S.B. 912, Relating to exemptions from the Administrative Procedure Act. (With amendment)

S.B. 532, Relating to temporary licenses for participation in certain cosmetology educational activities. (With amendment)

S.B. 1158, An Act amending Article 3.34, Insurance Code, as amended; amending the definition of "Texas Securities"; relating to corporate first mortgage bonds, notes, and debentures, bank and bank holding company stocks, bank deposits, policy loans, real estate and liens on real estate, insurance requirements, and debt obligations of other corporations; establishing the valuation of Texas securities and/or similar securities; and declaring an emergency. (With amendment)

S.B. 81, Exempting CPA review courses from coverage of Proprietary School Act. (With substitute)

S.B. 1297, Relating to financing certain motor vehicle insurance.

S.B. 801, Relating to underground storage of natural gas. (With amendments)

S.B. 658, Authorizing the Department of MH-MR to charge for genetic counseling.

S.B. 47, An Act relating to the authorization of the Board of Control to waive the requirements of the State Purchasing Act of 1957 for the rental or lease-purchase of supplies, materials, or equipment by the legislature; and adding Section 9A to the State Purchasing Act of 1957, as amended (Article 664-3, Vernon's Texas Civil Statutes).

S.B. 271, An Act relating to workmen's compensation law; amending Section 5, Article 8307, Revised Civil Statutes of Texas, 1925; and declaring an emergency.

S.B. 332, Requiring the governor to submit biennial reports on organization and efficiency of state government. (With amendment)

S.B. 368, Creating six judicial districts composed of Harris County. (With amendment)

S.B. 1172, Energy Policy Planning Act of 1977. (With amendment)

S.B. 412, Relating to the weight of vehicles transporting ready-mixed concrete.

S.B. 846, Relating to the creation of a downtown improvement program. (With amendments)

S.B. 1040, Relating to economic education programs in public schools.

S.B. 67, Relating to registration and certification of persons who assess property for ad valorem taxation. (With amendments)

S.B. 579, Dredged Materials Act.

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

S.C.R.	82	S.B.	699
S.C.R.	91	S.B.	1102
S.C.R.	93	S.B.	586
S.J.R.	5	S.B.	1188
S.J.R.	48	S.B.	943
S.B.	186	S.B.	961
S.B.	190	S.B.	974
S.B.	249	S.B.	977
S.B.	334	S.B.	986
S.B.	398	S.B.	1033
S.B.	468	S.B.	1043
S.B.	626	S.B.	1055
S.B.	759	S.B.	1079
S.B.	831	S.B.	1103
S.B.	865	S.B.	1143
S.B.	883	S.B.	1153
S.B.	919	S.B.	1164
S.B.	941	S.B.	1252

NOTICE OF LOCAL AND UNCONTESTED BILLS CALENDAR

On motion of Senator Adams and by unanimous consent, the Senate agreed to hold a Local and Uncontested Bills Calendar on conclusion of regular session tomorrow.

SENATE RESOLUTION 736

Senator Traeger offered the following resolution:

WHEREAS, Representing with integrity and devotion the people of San Antonio and Bexar County, State Senator Frank Lombardino has worked tirelessly for 11 years in the Texas Legislature, serving from 1966 to 1974 in the House of Representatives, and since 1975 in the Senate; and

WHEREAS, After visiting Texas in 1945 while serving with the U.S. Air Force, Frank Lombardino returned to this state in 1950 at which time he joined the San Antonio police department, operating first as a patrolman and later as a detective; and

WHEREAS, Perennially active in civic concerns, Frank Lombardino has served as a member of the San Antonio Chamber of Commerce, the Central Park Lions Club, the International Good Neighbor Council, the Christopher Columbus Society, the Italo-American Society, the governor's 10-member Executive Committee of the Criminal Justice Council, and the 1972 United Fund Campaign, of which he was vice-chairman; he also held the directorship of the San Antonio council of UNICO and the Alamo chapter of the Epilepsy Foundation; and

WHEREAS, Throughout his tenure as a lawmaker Frank Lombardino has striven for state-wide educational improvements and his promise to bring a four-year state university to his hometown was fulfilled in 1969 with the creation of The University of Texas at San Antonio; and

WHEREAS, Recognized as "The Father of The University of Texas at San Antonio," Frank Lombardino has continued to labor for enhancements and expanded programs at UTSA, including dental and nursing schools and a wide range of special curricula, and the university's first continuing scholarship fund was named in his honor; now, therefore, be it

RESOLVED, That the Senate of the 65th Legislature of the State of Texas commend Frank Lombardino upon his distinguished record of accomplishments, especially his dedication to the field of education; and, be it further

RESOLVED, That the Senate of the State of Texas hereby request The University of Texas Board of Regents to name a building at UTSA in honor of Frank Lombardino, "The Father of The University of Texas at San Antonio"; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Senator Frank Lombardino as an expression of highest esteem from his colleagues in the Senate of the State of Texas.

The resolution was read and was adopted.

BILLS ORDERED NOT PRINTED

On motion of Senator Moore and by unanimous consent, the following bills were ordered not printed:

H.B. 42
H.B. 2036
H.B. 617
H.B. 1008
H.B. 447
H.B. 890
H.B. 416
S.B. 753
H.B. 1396
H.B. 1908

HOUSE BILL 670 ORDERED NOT PRINTED

On motion of Senator Brooks and by unanimous consent, **H.B. 670** was ordered not printed.

HOUSE BILL 190 ORDERED NOT PRINTED

On motion of Senator Aikin and by unanimous consent, **H.B. 190** was ordered not printed.

SENATE BILL AND RESOLUTIONS ON FIRST READING

By unanimous consent, the following bill and resolutions were introduced, read first time and referred to the Committee indicated:

S.B. 1335 by Adams Natural Resources
Relating to hearings concerning certain orders of the Texas Water Quality Board; adding Subsection (d) to Section 21.070, Water Code.

S.C.R. 106 by Ogg Administration

Creating an interim committee to study the reorganization of the administrative branch of state government.

S.C.R. 107 by Adams

Administration

Authorizing loan of a decorated transom pane removed from East wing of Capitol to the Daughters of the Republic of Texas for display in organization's museum in Old Land Office.

S.R. 741 by Meier

Finance

Creating a special interim committee to study juvenile offenders and the civil and criminal jurisprudence system in Texas as it addresses itself to delinquents.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House, were read the first time and referred to the Committee indicated:

- H.B. 2259, To Committee on Natural Resources.
- H.B. 2258, To Committee on Education.
- H.B. 2257, To Committee on State Affairs.
- H.B. 2255, To Committee on State Affairs.
- H.B. 2253, To Committee on Intergovernmental Relations.
- H.B. 2243, To Committee on State Affairs.
- H.B. 2028, To Committee on Intergovernmental Relations.
- H.B. 2067, To Committee on State Affairs.
- H.B. 2154, To Committee on Intergovernmental Relations.
- H.B. 2196, To Committee on Intergovernmental Relations.
- H.B. 2223, To Committee on Natural Resources.
- H.B. 2233, To Committee on Intergovernmental Relations.
- H.B. 2236, To Committee on Education.
- H.B. 2238, To Committee on Intergovernmental Relations.
- H.B. 2240, To Committee on Jurisprudence.
- H.B. 1976, To Committee on Intergovernmental Relations.
- H.B. 1845, To Committee on State Affairs.
- H.B. 1837, To Committee on State Affairs.
- H.B. 1799, To Committee on Natural Resources.
- H.B. 1778, To Committee on Intergovernmental Relations.
- H.B. 1721, To Committee on Intergovernmental Relations.
- H.B. 1580, To Committee on Education.
- H.B. 1551, To Committee on Intergovernmental Relations.
- H.B. 1550, To Committee on Economic Development.
- H.B. 1412, To Committee on Intergovernmental Relations.
- H.B. 1232, To Committee on State Affairs.
- H.B. 1061, To Committee on State Affairs.
- H.B. 955, To Committee on Education.
- H.B. 912, To Committee on Intergovernmental Relations.
- H.B. 905, To Committee on Jurisprudence.
- H.B. 807, To Committee on Intergovernmental Relations.
- H.B. 686, To Committee on Intergovernmental Relations.
- H.B. 649, To Committee on State Affairs.
- H.B. 672, To Committee on Finance.
- H.B. 407, To Committee on Finance.
- H.B. 515, To Committee on Intergovernmental Relations.
- H.B. 524, To Committee on Jurisprudence.
- H.B. 136, To Committee on Education.
- H.B. 722, To Committee on Economic Development.

H.B. 759, To Committee on Economic Development.
H.B. 795, To Committee on Jurisprudence.
H.B. 1129, To Committee on State Affairs.
H.B. 1146, To Committee on Jurisprudence.
H.B. 1170, To Committee on Economic Development.
H.B. 1242, To Committee on Human Resources.
H.B. 1269, To Committee on Jurisprudence.
H.B. 1410, To Committee on Education.
H.B. 1722, To Committee on Economic Development.
H.B. 1880, To Committee on Human Resources.
H.B. 1921, To Committee on Economic Development.
H.B. 2163, To Committee on Intergovernmental Relations.
H.B. 2197, To Committee on Administration.
H.B. 2213, To Committee on Natural Resources.
H.B. 2244, To Committee on Natural Resources.
H.B. 2245, To Committee on Intergovernmental Relations.
H.B. 1784, To Committee on Jurisprudence.
H.J.R. 11, To Committee on Finance.
H.J.R. 40, To Committee on Natural Resources.
H.C.R. 155, To Committee on Administration.
H.C.R. 31, To Committee on State Affairs.

SENATE RESOLUTION 723

Senator McKnight offered the following resolution:

WHEREAS, The State of Texas is indeed fortunate in having as a native son, Air Force Colonel Robert L. Stephens, who, on May 1, 1965, broke the world absolute air speed record and set a sustained world absolute altitude record for aircraft; flying in the Lockheed built delta wing YF-12A advanced interceptor, Colonel Stephens averaged 2,070 miles per hour (more than three times the speed of sound) and held an altitude of 80,257 feet; and

WHEREAS, A native of Gilmer, Colonel Stephens is the son of the late Vernon J. Stephens and Mrs. Manie Stephens; Bobby Stephens Day in Gilmer was celebrated on June 18, 1966, in honor of Colonel Stephens and his history-making career; and

WHEREAS, This distinguished citizen was graduated from Texas A & M University in 1943, with a degree in aeronautical engineering, and attended officers' candidate school at Fort Benning, Georgia; he obtained his wings in 1944 after attending the Army Air Corps pilot training school and, in 1949, received his master's degree in aeronautical engineering at Princeton University; and

WHEREAS, In 1952, he moved to the Air Force Flight Test Center at Edwards Air Force Base and, in 1953, was named chief of fighter operations; since that time, he has tested most of the jet fighters in the United States Air Force, including research vehicles such as the rocket powered X-1 and the X-5; and

WHEREAS, While working as test director, test pilot, and advisor with the F-104, a double sonic jet used as the main interceptor plane for the free world defense, Colonel Stephens was awarded the Legion of Merit, the second highest national peacetime military award; and

WHEREAS, Colonel Stephens' involvement with the air force's secret and most advanced aircraft began in 1963; during the five years he was test director of the SR-71/F-12 Test Force, his organization was twice awarded the Air Force Outstanding Unit Award; and

WHEREAS, Colonel Stephens is familiarly called "the Silver Fox" because of his gray hair, but the cognomen seems particularly applicable in view of his association with the development of the well-kept secret titanium-skinned interceptor which was announced by President Lyndon B. Johnson in 1964 as the A-11; and

WHEREAS, During 1968, he served as the first active duty military president of the international organization, Society of Experimental Test Pilots; prior to this, he had been the first military test pilot to be elevated to the level of Fellow, an honor given those who have attained distinction during more than 15 years as an experimental test pilot, and he served as executive advisor to the board of directors of this organization; and

WHEREAS, This outstanding Texan has received the Legion of Merit three times, the Distinguished Flying Cross twice, and the Meritorious Service Medal; he has been awarded the Thompson, Mackay, and Flying Tiger trophies, and, in 1966, he was presented the FAI gold medal and the de la Vaulx medal by the president of the Federation Aeronautique Internationale in Santiago, Chile; and

WHEREAS, Colonel Stephens was also honored in 1968 at the annual awards banquet of the American Academy of Achievement as one who "represents the many who excel" in the sciences, professions, industry, the arts, and public service; and

WHEREAS, In 1970, the American Fighter Aces Association honored Colonel Stephens for Professional Excellence, making him an honorary American Fighter Ace as part of the awarding ceremony, and, in 1973, he was elevated to the grade of Associate Fellow in the American Institute of Aeronautics and Astronautics; he is presently Technical Director and Representative, United States and Canada, for the Motoren-und Turbinen-Union, Munich, Germany, with an office in Fairfax, Virginia; and

WHEREAS, It is appropriate that the Texas Senate honor Colonel Stephens for his distinguished record of service and his many outstanding achievements; now, therefore, be it

RESOLVED, That the Senate of the 65th Legislature of the State of Texas pay tribute to the remarkable accomplishments of Colonel Robert L. Stephens and commend him for his many contributions in the field of aeronautics; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Colonel Stephens as a token of the highest esteem of the Texas Senate.

The resolution was read and was adopted.

On motion of Senator Moore and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereto.

Senator McKnight introduced Colonel Stephens and his party to the Members of the Senate.

Colonel Stephens was escorted to the Rostrum and was presented a copy of Senate Resolution 723.

Colonel Stephens expressed his appreciation for this tribute from his fellow Texans.

SENATE BILL 310 WITH HOUSE AMENDMENTS

Senator Braecklein called **S.B. 310** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Substitute the following for **S.B. 310**:

A BILL TO BE ENTITLED**AN ACT**

relating to a presumption under certain circumstances that a person obtains or exercises control over used or secondhand personal property knowing it to have been stolen; amending Section 31.03, Penal Code; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Subsection (c), Section 31.03, Penal Code, is amended to read as follows:

“(c) For purposes of Subsection (b) (2) of this section:

“(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

“(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

“(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with him, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Art. 6687-1 V.A.C.S.) that the property has been previously stolen from another if the actor pays for or loans against the property \$25 or more (or consideration of equivalent value) and the actor knowingly or recklessly;

“(i) fails to record the name, address, and physical description or identification number of the seller or pledgor;

“(ii) fails to record a complete description of the property including the serial number, if reasonably available, or other identifying characteristics; or

“(iii) fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements.

“(4) for the purposes of subparagraph (i) above, 'identification number' means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual.”

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 1

Amend C.S.S.B. 310 by adding a new Section 2 to read as follows:

"Sec. 2: The provisions of sub-section (c) (3) & (4) shall not apply to the purchase or sale of property at a public sale commonly known as a neighborhood garage sale or community-wide flea market or First Monday Sale."

Renumber the present Sec. 2 as Sec. 3.

The amendments were read.

Senator Braecklein moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 850 WITH HOUSE AMENDMENTS

Senator Snelson called S.B. 850 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Substitute the following for S.B. No. 850:

**A BILL TO BE ENTITLED
AN ACT**

relating to the issuance of voter registration certificates, providing for postage prepaid voter registration applications or other means to be made available by the Secretary of State and providing a procedure whereby certain persons deleted from the registration lists may vote on certain election dates; requiring maintenance of lists of cancelled certificates with certain information and for use of such lists; prescribing fees to be charged for such lists and for disposition of proceeds of the fees; defining an offense and prescribing a penalty; amending Sections 45a, 45b, 46a, 48a, 50a, 51a, 51b, 90, 111b, and 197, Texas Election Code, as amended (Articles 5.13a, 5.13b, 5.14a, 5.16a, 5.18a, 5.19a, 5.19b, 8.08, 8.29b, and 13.19, Vernon's Texas Election Code); repealing Section 3, House Bill No. 1788, Acts of the 65th Legislature, 1977; making an appropriation; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Subsection (b), Subdivision 2, Section 46a, Texas Election Code, as amended (Article 5.14a, Vernon's Texas Election Code), is amended to read as follows:

"(b) Between November 1 and November ~~[the succeeding December]~~ 15 of each year in which no general election is held, beginning in 1977, the registrar shall prepare and mail to each registered voter in the county as of the preceding October 31 a registration certificate for use during the succeeding two voting years. The certificate shall be mailed to the permanent residence address shown on the voter's registration application; or, if provided, the mailing address. It shall not be sent in the same envelope as the voter's tax statement. Attached to or made a part of the registration certificate shall be adequate space for the voter to insert any change of information other than that printed on the certificate. If the voter has noted such changes, the notice shall be signed and affirmed by the voter and returned to the

registrar for correction of the records and issuance of a corrected certificate to the voter.

"The registration certificate or envelope containing the certificate shall be marked with a direction to the postal authorities not to forward it to any other address and to return it to the registrar if the addressee is no longer at that address. In the event the certificate is returned, the registrar shall cancel the voter's registration. The registrar shall maintain a list of all returned and cancelled registration certificates showing the name, address, birth date, and registration number of the person to whom the certificate was issued. The list shall be kept in the registrar's office and shall be open to public inspection at all times during regular office hours of the registrar, subject to reasonable regulations and to proper safeguards against alterations, mutilation, or removal. The registrar shall furnish a copy of such list to any person requesting it and shall be permitted to charge One Dollar (\$1) for each 10,000 names contained on the list, to be paid by the person so ordering such list. Any money collected pursuant to this subdivision shall be accounted for as official fees of office."

"Prior to the succeeding January 15, the registrar shall send to the Secretary of State a list of all the persons, along with all corresponding information available and required by the Secretary of State, whose registration certificates were cancelled as a result of the provisions of this section. Such list shall be in computer readable form. The Secretary of State shall furnish a copy of such list to any person requesting it and shall be permitted to charge One Dollar (\$1) for each 10,000 names contained on the list, to be paid by the person so ordering such list. Funds collected by the Secretary of State pursuant to this subdivision shall be used by the Secretary of State to defray any expenses incurred in the preparation of such list."

~~"Any person who uses information obtained under this subdivision for any purpose other than informing voters about candidates for public offices or public issues or for voter registration purposes is guilty of a Class A misdemeanor [with the reason for nondelivery and address correction information to be furnished to the registrar. The registrar may make whatever arrangements with the postal authorities he deems suitable for handling the payment for the address correction service. In the event the certificate is returned and such forwarding address is received, the registrar shall mail to the registrant at such forwarding address a notice that his registration will be cancelled unless he certifies to the registrar by February 1 his current residence address or certifies to the registrar such other relevant information which would be determinative of his right to retain his current registered status. If the voter replies to the notice, the registrar shall take the appropriate action indicated by the reply. If no reply is received by February 1 the registrar shall cancel the voter's registration. Where the registration certificate is returned and no forwarding address information is available, that person's registration shall be cancelled if the voter has not otherwise provided information to the registrar by February 1 of that voting year. The notice shall also inform the voter of the need to obtain a corrected registration certificate if any of the information appearing on his current certificate is incorrect. The notice shall state that the voter's registration will be cancelled if the registrar does not receive an appropriate reply by February 1 of that voting year. If the voter replies to the notice, the registrar shall take the appropriate action indicated by the reply. If no appropriate reply is received by February 1 of that voting year, the registrar shall cancel the voter's registration, and shall send notice thereof to the voter in the same manner as the notice. Except that, if a notice is returned to the registrar as undeliverable or no forwarding information is available, the registrar shall cancel the voter's registration]."~~

Sec. 2. Subsection (1) of Section 51a, Texas Election Code, as amended (Article 5.19a (1), Vernon's Texas Election Code), is amended to read as follows:

"(1) The ~~[Before the first day of March each year, the]~~ registrar shall prepare for each election precinct of the county a certified list of registered voters who are registered as of the 30th day prior to the first election in each voting year ~~[, as of the 30th day prior to March 1 are entitled to registration for the voting year in which March 1 falls]~~. Each precinct list shall be arranged alphabetically by the names of the voters and showing each voter's name, residence address, sex, date of birth and registration number. The Secretary of State may prescribe the content and format of the precinct list. The registrar shall deliver to each board, executive committee, or other authority having the duty of furnishing supplies for any general, special, or primary election to be held within the county during the voting year for which the list is prepared, one set of such lists for all precincts in the county if any election which may be held by such authority is countywide, and one set of such lists for all precincts wholly or partially within the boundaries of the particular political subdivision if all elections which may be held by such authority are less than countywide. The registrar shall also furnish to each such authority an updated supplemental list of the voters in each precinct who will have been registered for 29 days on the day of the election and whose names do not appear on the original list. In the event the prescribed combination form in accordance with Section 16 of this code has been furnished, before the first day of absentee voting in any subsequent election held by the authority during that voting year, the registrar shall furnish to the authority in either the prescribed combination form or simple list form, another copy of the original list and an updated supplemental list of the voters in each precinct who will have been registered for 29 days on the day of the election and whose names do not appear on the original list, except that in the case of a runoff election the registrar may furnish a copy of the supplemental list prepared for the preceding election and ~~[When a runoff election is held, before the first day of absentee voting in the runoff election the registrar shall prepare]~~ a supplemental list of the voters who will have been registered for 29 days on the day of the runoff election and whose names do not appear on the original list or the supplemental list prepared for the preceding ~~[first]~~ election instead of preparing a single updated supplemental list for that election. In every instance, instead of preparing a supplemental list or lists, the registrar may prepare a revised original list consolidating into it the names of the voters that would have been included on the supplemental list or lists. With each supplemental list or revised original list the registrar shall also furnish a list of persons whose registration information has been changed or corrected or whose registration has been cancelled or transferred to another precinct since preparation of the last set of lists. The authority shall furnish to the presiding judge in each precinct the original and supplemental lists of voters in his precinct at the time it furnishes other election supplies. Prior to the opening of the polls, the presiding judge shall strike from the registration list the names of persons whose registration has been cancelled or transferred to another precinct, and shall correct the list for persons whose registration information has been changed or corrected.

"Before the first day of April in each even-numbered year and whenever appropriate thereafter, the registrar shall attach to each list herein required an alphabetical corresponding certified list of all the persons whose registration certificates were cancelled, pursuant to the provisions of Section 46a of this code, and such list shall remain attached to the election precinct list for three months thereafter. The precinct lists may be combined with the corresponding lists of cancelled registrations in accordance with the form and content prescribed by the Secretary of State."

Sec. 3. Subdivision 1, Section 45a, Texas Election Code, as amended (Article 5.13a, Vernon's Texas Election Code), is amended to read as follows:

"Subdivision 1. Registration shall be conducted at all times the registrar's office is open for business. A person may apply for registration in person or by mail. Each applicant shall submit to the registrar of the county in which he resides a written application which supplies all the information required by Section 45b of this code (Article 5.13b, Vernon's Texas Election Code). The Secretary of State shall prescribe the application form. The application for registration by mail shall be in the form of a business reply postcard, or other suitable form, with postage to be paid by the state. The Secretary of State shall make necessary arrangements with the United States Postal Service for obtaining a permit for use of the business reply mail form, or other suitable form, and for payment of the postal charges through warrants issued by the comptroller of public accounts. The Secretary of State shall be authorized to use any form or system made available by the United States Postal Service if such other form or system will be less costly than business reply, and he shall be authorized to implement any procedures necessary to accommodate such other form or system. The applications shall be available to individuals, organizations, businesses, and political subdivisions in reasonable quantities. No fee shall ever be charged for voter registration applications. The Secretary of State [He] may prescribe one or more forms for use in counties using electronic data processing methods for issuing voter registration certificates and a different form for use in counties not using those methods, but the registrar in each county shall accept any application made upon any form prescribed by the Secretary of State which supplies all the necessary information for registration. In addition to other requirements, the application form shall contain the following statement: 'I understand that the giving of false information to procure the registration of a voter is a felony.' It shall also contain a space for recording the number of the voter's registration certificate."

Sec. 4. Subdivision 1, Section 90, Texas Election Code, as amended (Article 8.08, Vernon's Texas Election Code), is amended to read as follows:

"Subdivision 1. An election officer shall receive from the voter his registration certificate, when he presents himself to vote. If the voter has lost or mislaid his certificate or left it at home, he shall make an affidavit of that fact. For elections held on or after April 1 and no later than June 30 in even-numbered years, if any voter who is a resident of a county in a primary election or of a county, municipality, or district which is conducting any other election has failed to receive a certificate for the current two-year registration period, the election officer shall determine if the name of such voter appears on the list of cancelled voter registration certificates for the particular election precinct, and, if so, the election officer shall allow such voter to cast a ballot in the manner stated in Section 48a of this code. The election officer shall announce the voter's name in an audible voice and shall ascertain that his name appears on the list of registered voters or shall satisfy himself, in the manner stated in Section 48a of this code, that the voter is a registered voter and is entitled to vote in that precinct. He shall then require the voter to sign the signature roster provided for in Subdivision 3 of this section. If the voter has presented his registration certificate, the election officer shall compare the signature on the roster with the signature on the certificate to see that it is the same. If he finds that the signatures do not correspond, he shall not allow the voter to vote unless the voter complies with the procedure prescribed in Section 91 of this code for acceptance of a challenged voter."

Sec. 5. Section 48a, Texas Election Code, as amended (Article 5.16a, Vernon's Texas Election Code), is amended by adding Subdivision 3a to read as follows:

"Subdivision 3a. Cancelled voter registration certificate. For elections held between March 1 and no later than June 30 in even-numbered years, where a voter's name is not shown on the precinct list of registered voters but does appear on the

precinct list of cancelled voter registration certificates, the election officer shall permit such voter to cast a ballot, provided such voter submits a completed voter registration application to the election officer and an affidavit that he still resides within the county for county administered and primary elections or within the municipality or other political subdivision if administered by such authority. In the event the runoff primary election occurs within 29 days after the date of the general primary, the voter may vote at the election under the procedure outlined in this subdivision, except that the voter shall inform the presiding judge that he voted under this procedure at a previous election, and the presiding judge shall note that fact on the application. When the registrar receives such an application, he shall attach it to the application previously received.

"All affidavits required by this subdivision shall contain the content and be in the form prescribed by the Secretary of State. The date on which the election officer accepts an application is considered to be the date on which the registrar receives it, and the registration becomes effective for voting in other elections on the 30th day after that date."

Sec. 6. Section 197, Texas Election Code, as amended (Article 13.19, Vernon's Texas Election Code), is amended to read as follows:

"197. Supplies.

"The executive committee shall have a general supervision of the primary in such county [;] and shall be charged with the full responsibility for the distribution to the presiding judge of all supplies, including but not limited to the number of voter registration applications, necessary for holding same in each election precinct. If the duly appointed presiding officer shall fail to obtain from the executive committee the supplies for holding such election, such committee shall deliver the same to the precinct chairman for such precinct, and, if unable to deliver the same to such presiding officer or precinct chairman not less than twenty-four (24) hours prior to the time of opening the polls for such primary, such committee shall deliver the same to any qualified voter of the party residing in such precinct, taking his receipt therefor, and appointing him to hold such election in case such presiding officer or precinct chairman shall fail to appear at the time prescribed for opening the polls."

Sec. 7. Section 111b, Texas Election Code, as amended (Article 8.29b, Vernon's Texas Election Code), is amended by adding Subsection (d) to read as follows:

"(d) The presiding judge shall deliver all applications for registration received pursuant to Section 48a of this code to the officer who receives the election records that are open to public inspection at the same time that he delivers those records. Within five days after the election, this latter officer shall forward the applications from all election precincts to the county registrar of voters, who shall process the applications and issue registration certificates thereon in the same manner as other applications."

Sec. 8. Section 199, Texas Election Code, as amended (Article 13.21, Vernon's Texas Election Code), is amended to read as follows:

"Sec. 199. Lists of voters.

"The county tax collector shall deliver to the chairman of the County Executive Committee of each political party, for its use in primary elections, original and supplemental lists of the qualified voters of each precinct in the county, with the appropriate list of cancelled voter registration certificates attached to each precinct list of the county, and such chairman shall place the same for reference in the hands of the election officers of each election precinct before the polls are open. No primary election shall be legal unless such lists are obtained and used for reference during the election. Opposite the name of every voter on said list shall be stamped or written with pen and ink, when his vote is cast, the words 'primary-voted', with the date of such primary under the same."

Sec. 9. Subdivision 1, Section 45b, Texas Election Code, as amended (Article 5.13b, Vernon's Texas Election Code), is amended to read as follows:

"Sec. 45b. Information on application.

"Subdivision 1. Required information. An application form for voter registration shall provide that the following required information be furnished by the applicant:

"(1) The applicant's first name, middle name (if any), and surname. If the applicant is a married woman using her husband's surname, she shall furnish her first name, maiden name, and husband's surname.

"(2) The applicant's sex.

"(3) The month, day, and year of the applicant's birth, and city or county and state, or foreign country, where the applicant was born.

"(4) A statement that the applicant is a citizen of the United States.

"(5) If a naturalized citizen, the court of naturalization, or its location.

"(6) A statement that the applicant is a resident of the county.

"(7) If the applicant is currently registered in another county or if the applicant was registered in the previous two-year certificate period in any county in the state and has not received a registration certificate for the current two-year certificate period, the name of that county and the applicant's [last] residence address as shown on such registration certificate [in that county].

"(8) The registrant's complete current permanent residence address (including apartment number, if any); or, if none, a concise description of the location of the registrant's residence. [§]

"(9) The address to which the registration certificate is to be mailed, but only if mail cannot be delivered to the registrant's permanent residence.

"(10) If the application is made by an agent, a statement of the agent's relationship to the applicant."

Sec. 10. Subdivision 4, Section 50a, Texas Election Code, as amended (Article 5.18a, Vernon's Texas Election Code), is amended to read as follows:

"Subdivision 4. Notification to registrar in county of former residence. When the registrar receives an application for registration of a voter who is registered in some other county, he shall notify the registrar of that county, giving him the voter's name, former registration certificate number if known, and former residence address. Upon receipt of notice, the registrar of the county wherein the voter was formerly registered shall cancel the registration in that county. When the registrar receives an application for registration of a voter who was registered in the previous two-year certificate period in any county and has not received a current registration certificate, he shall notify the registrar of that county, if different from the registrar's county, giving him the voter's name, former residence address, birth date, and social security number if available, and may also include a copy of the voter's signature. Upon receipt of such notice, the registrar of the county wherein the voter was formerly registered shall remove the voter from the list of cancelled voter registration certificates of the appropriate election precinct. If the voter's name is on a list of cancelled voter registration certificates in the county wherein he is attempting to register, the registrar of such county shall cause the voter's name to be removed from the appropriate precinct list. The name of any person shall not be removed from the list of cancelled voter registration certificates until such registration is effective."

Sec. 11. Subdivision 3, Section 51b, Texas Election Code, as amended (Article 5.19b, Vernon's Texas Election Code), is amended to read as follows:

"Subdivision 3. The Secretary of State shall determine whether the registrar has complied with the provisions of Section 46a of this code and he shall notify the comptroller. The comptroller shall not issue the warrant provided for in Subdivision 2 of this section until notified by the Secretary of State that the registrar is in

compliance. ~~[If the secretary of state determines that the registrar of any county has not substantially complied with the provisions of this code, he shall so notify the comptroller. The comptroller shall then withhold from such county the warrant provided for in Subdivision 2 of this section until notified by the secretary of state that the registrar is in compliance with this code.]~~"

Sec. 12. There is hereby appropriated to the Secretary of State out of the General Revenue Fund the amount of \$292,700 for the year ending August 31, 1978, and the amount of \$152,500 and U.B., for the year ending August 31, 1979, for the purpose of implementing the provisions of this Act.

Sec. 13. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1

Amend C.S.S.B. No. 850 as follows:

Sec. 1. Subsection (1) of Section 51a, Texas Election Code, as amended (Article 5.19a (1), Vernon's Texas Election Code), is amended to read as follows:

"(1) ~~[Before the first day of March each year, the]~~ The registrar shall prepare for each election precinct of the county a certified list of registered voters who are registered as of the 30th day prior to the first election in each voting year ~~[as of the 30th day prior to March 1 are entitled to registration for the voting year in which March 1 falls]~~. Each precinct list shall be arranged alphabetically by the names of the voters and showing each voter's name, residence address, sex, date of birth and registration number. The secretary of state may prescribe the content and format of the precinct list. The registrar shall deliver to each board, executive committee, or other authority having the duty of furnishing supplies for any general, special, or primary election to be held within the county during the voting year for which the list is prepared, one set of such lists for all precincts in the county if any election which may be held by such authority is countywide, and one set of such lists for all precincts wholly or partially within the boundaries of the particular political subdivision if all elections which may be held by such authority are less than countywide. The registrar shall also furnish to each such authority an updated supplemental list of the voters in each precinct who will have been registered for 29 days on the day of the election and whose names do not appear on the original list. In the event the prescribed combination form in accordance with Section 16 of this code has been furnished; before the first day of absentee voting in any subsequent election held by the authority during that voting year, the registrar shall furnish to the authority in either the prescribed combination form or simple list form, another copy of the original list and an updated supplemental list of the voters in each precinct who will have been registered for 29 days on the day of the election and whose names do not appear on the original list, except that in the case of a runoff election the registrar may furnish a copy of the supplemental list prepared for the preceding election and [when a runoff election is held, before the first day of absentee voting in the runoff election the registrar shall prepare] a supplemental list of the voters who will have been registered for 29 days on the day of the runoff election and whose names do not appear on the original list or the supplemental list prepared for the preceding [first] election instead of preparing a single updated supplemental list for that election. In every instance, instead of preparing a supplemental list or lists, the registrar may prepare a revised original list consolidating into it the names of the voters that would have been included on the supplemental list or lists. With each supplemental list or revised original list the

registrar shall also furnish a list of persons whose registration information has been changed or corrected or whose registration has been cancelled or transferred to another precinct since preparation of the last set of lists. The authority shall furnish to the presiding judge in each precinct the original and supplemental lists of voters in his precinct at the time it furnishes other election supplies. Prior to the opening of the polls, the presiding judge shall strike from the registration list the names of persons whose registration has been cancelled or transferred to another precinct, and shall correct the list for persons whose registration information has been changed or corrected.

"Before the first day of April in each even-numbered year, and whenever appropriate thereafter, the registrar shall attach to each list herein required an alphabetical corresponding certified list of all the persons whose registration certificates were cancelled, pursuant to the provisions of Section 46a of this code, and such list shall remain attached to the election precinct list for three months thereafter. The precinct lists may be combined with the corresponding lists of cancelled registrations in accordance with the form and content prescribed by the secretary of state."

(2) Strike Section 8 and renumber all subsequent sections accordingly.

(3) Insert a new section, numbered in proper sequence, immediately before the emergency clause, the new section to read as follows:

Sec. _____. Section 3 of House Bill No. 1788, Acts of the 65th Legislature, Regular Session, 1977, is repealed.

The amendments were read.

Senator Snelson moved to concur in the House amendments.

The motion prevailed.

SENATE CONCURRENT RESOLUTION 105

Senator Traeger offered the following resolution:

S.C.R. 105, Requesting the Governor return **H.B. 1660** to the Senate for further consideration.

The resolution was read.

On motion of Senator Traeger and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE BILL 918 WITH HOUSE AMENDMENT

Senator Patman called **S.B. 918** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Substitute the following for **S.B. 918**:

A BILL TO BE ENTITLED

AN ACT

relating to education for wards of the Texas Youth Council and mentally retarded persons under the care and control of the Texas Department of Mental Health and Mental Retardation; amending Sec. 1.04, and Chapter 30, Texas Education Code; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Subsection (b) of Sec. 1.04, Texas Education Code, is amended to read as follows:

"(b) This code shall not apply to those ~~[eleemosynary]~~ facilities and institutions under the control and direction of the Texas Department of Mental Health and Mental Retardation or to the institutions ~~[and activities]~~ for delinquent, dependent and neglected children under the control and direction of the Texas Youth Council except as specifically provided in Subchapter E of Chapter 30 of this code."

Sec. 2. Chapter 30, Texas Education Code, is amended by adding a Subchapter E, to read as follows:

"SUBCHAPTER E. RESIDENTIAL CARE FACILITIES

"Sec. 30.81. PURPOSE. The purpose of this subchapter is to provide the necessary means to extend the per capita allocation from the state available fund to wards of the Texas Youth Council residing in state residential facilities for delinquent or dependent and neglected children and to those handicapped persons residing in state residential facilities for the mentally retarded under the control and direction of the Texas Department of Mental Health and Mental Retardation, and for the purpose of providing such state available funds for educational purposes, the educational programs in state residential care facilities for delinquent, dependent or neglected children, and the mentally retarded shall be deemed to be educational services provided by public free schools.

"Sec. 30.82. DEFINITIONS. In this subchapter 'mentally retarded' means that condition in which a person is described as having significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior.

"Sec. 30.83. ALLOCATION. (a) Each residential care facility for delinquent or dependent and neglected children under the control and direction of the Texas Youth Council or residential care facility for the mentally retarded under the control and direction of the Texas Department of Mental Health and Mental Retardation shall be entitled to receive the state available per capita allocation based on the facility's average daily attendance in educational programs, of students ages three (3) through twenty-one (21).

"(b) Personnel authorized under the Foundation School Program employed in the state facilities pursuant to this section shall receive as a minimum salary the monthly salary rate specified in Chapter 16 of the Texas Education Code, as amended; provided, however, such personnel may be paid, from funds appropriated to the respective state facilities for delinquent or dependent and neglected children or the mentally retarded, salary rates in excess of the minimum amounts specified in Chapter 16 of the Texas Education Code, as amended, but such salary rates shall never exceed the rates of pay for like positions in the public schools of the adjacent school district or districts."

Sec. 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Patman moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1207 WITH HOUSE AMENDMENTS

Senator Sherman called **S.B. 1207** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend S.B. No. 1207, Engrossed Copy, as follows:

(1) On page 88, strike line 8 and substitute the following: "structures as long as they are located wholly on the"

(2) On page 162, strike lines 2 and 3 and substitute the following: "made by a lessee on land leased by him may be removed by the lessee on the expiration of the".

(3) On page 480, line 20, insert "111.137," following "111.136,".

(4) On page 699, line 2, between "prevails" and the period insert: "unless the conflicting provision of the Administrative Procedure and Texas Register Act is cumulative of existing law."

Floor Amendment No. 1

Amend S.B. No. 1207, First Printing, as follows:

(1) On page 1 following the enacting clause, insert "Article I".

(2) Strike Section 7 on page 699.

(3) Following the last section on page 699 insert the following:

Article II

Section 1. Section 111.002, Natural Resources Code, is amended to read as follows:

"Section 111.002. **COMMON CARRIERS UNDER CHAPTER.** A person is a common carrier subject to the provisions of this chapter if it:

"(1) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire, or engages in the business of transporting crude petroleum by pipeline;

"(2) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire and the pipeline is constructed or maintained on, over, or under a public road or highway, or is an entity in favor of whom the right of eminent domain exists;

"(3) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire which is or may be constructed, operated, or maintained across, on, along, over, or under the right-of-way of a railroad, corporation, or other common carrier required by law to transport crude petroleum as a common carrier;

"(4) under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind, owns, operates, manages, or participates in ownership, operation, or management of a pipeline or part of a pipeline in the State

of Texas for the transportation of crude petroleum, bought of others, from an oil field or place of production within this state to any distributing, refining, or marketing center or reshipping point within this state; or

"(5) owns, operates, or manages, wholly or partially, pipelines for the transportation for hire of coal in whatever form or of any mixture of substances including coal in whatever form. (R.S. Art. 6018 (part); S.B. No. 185, 65th Legis., Reg. Sess., 1977.)"

Sec. 2. Section 111.013, Natural Resources Code, is amended to read as follows:

"Section 111.013. CONTROL OF PIPELINES. A pipeline subject to the provisions of this chapter not exempt under Section 111.003 of this code, which is used in connection with the business of purchasing or purchasing and selling crude petroleum, or in the business of transporting coal in whatever form by pipeline for hire in Texas, shall be operated as a common carrier and shall be subject to the jurisdiction of the commission. (R.S. Art. 6019 (part); S.B. No. 185, 65th Legis., Reg. Sess., 1977.)"

Sec. 3. Chapter 111, Natural Resources Code is amended by adding Subchapter I to read as follows:

"SUBCHAPTER I. COMMON CARRIER COAL PIPELINES

"Section 111.301. CERTIFICATE REQUIRED. A person that is a common carrier under Section 111.002(5) of this code must apply for and be issued a certificate of public convenience and necessity from the commission pursuant to the commission's authority to issue certificates under Section 111.302 of this code if the commission finds after a hearing that the public convenience and necessity will be served by the construction and operation of the pipeline.

"Section 111.302. COMMISSION AUTHORITY TO ISSUE CERTIFICATES. (a) The commission is further authorized, empowered, and directed to issue certificates of public convenience and necessity to pipelines transporting coal in whatever form or mixture for hire in Texas if the commission finds that the public convenience and necessity will be served in that existing facilities will not be able to provide the transportation as economically or efficiently as the proposed pipeline.

"(b) In exercising its powers and duties under this section, the commission may not issue a permit for or attempt to regulate in any manner the condemnation, appropriation, or acquisition of surface or ground water in Texas.

"(c) The commission shall not issue a permit, certificate, or any authority to any applicant whose rates and charges are not regulated by government authority, either state or federal, and that state or federal regulations insure to the public and to the ultimate electric consumer that the contracts, rates, and charges shall be just and reasonable, nondiscriminatory, and offering no preference or advantage to any person, corporation, entity, or group.

"(d) The commission shall not issue a permit, certificate, or any authority to any applicant whose pipeline transporting coal in whatever form unless the pipeline transporting coal in whatever form is to be buried at least 36 inches below the surface, except in such instances in which the commission specifically exempts the 36-inch depth requirement, and unless the pipeline transporting coal in whatever form conforms to all applicable state or federal regulations concerning the operation, maintenance, and construction of that same pipeline.

"(e) The commission shall condition the issuance of a certification upon the requirement that the pipeline company shall take no more than 50 feet in width of right-of-way under the power of eminent domain, except for temporary work areas adjacent to the right-of-way and then not to exceed 100 feet in width for the duration of the construction period only; and provided that any condemnation award granted under this chapter shall take into account the damages to the remainder caused by the exercise of eminent domain for the temporary work areas.

"Section 111.303. CERTIFICATION PROCEDURE. (a) The coal pipeline applicant shall publish, in accordance with regulations promulgated by the commission and existing law, a notice that it has filed an application for a certificate of public convenience and necessity under this Act in a newspaper of general circulation in each county in which the project will be located. The notice shall, among other things, specify to the extent practicable the land which would be subject to the power of eminent domain.

"(b) The commission shall then conduct public hearings in areas of the state along the prospective pipeline right-of-way as it shall determine shall be necessary to give property owners an opportunity to be heard. The commission is vested with authority to alter the right-of-way to meet with local objections.

"Section 111.304. TRANSPORTATION CONTRACT. No common carrier pipeline transporting coal in whatever form shall contract or otherwise agree to transport coal for a term in excess of three years without prior approval of that contract or agreement by the commission which approval shall be given on determination that the contract or agreement is in the public interest in which case the contract or agreement shall be enforceable.

"Section 111.305. OTHER AGENCIES. (a) The commission shall seek and act on the recommendations of the Texas Air Control Board, the Texas Water Quality Board, the Governor's Energy Advisory Council, or their successors responsible for environmental determinations and shall specify the proper use and disposal of nondischARGEABLE water.

"(b) Neither the authority conveyed to the commission by this subchapter to issue certificates and to promulgate rules governing pipelines transporting coal in whatever form nor the powers and duties conveyed on those pipelines by this chapter shall affect, diminish, or otherwise limit the jurisdiction and authority of the Texas Water Commission and the Texas Water Quality Board, or their successors, to regulate by applicable rules the acquisition, use, control, disposition, and discharge of water or water rights in Texas. (S.B. No. 185, 65th Legis., Reg. Sess., 1977.)"

Sec. 4. The Natural Resources Code is amended by adding Section 111.0191 to read as follows:

"Section 111.0191. COSTS OF RELOCATION OF PROPERTY. In the event a common carrier pipeline, in the exercise of the power of eminent domain or police power, or any other power granted under this chapter, makes necessary the relocation, raising, lowering, rerouting, or changing the grade of, or altering the construction of any railroad, electric transmission, telegraph or telephone lines, properties and facilities, or pipeline, all such relocation, raising, lowering, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of such common carrier pipeline. The term 'sole expense' means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of the facilities, after deducting therefrom the net salvage value derived from the old facility. (S.B. No. 185, 65th Legis., Reg. Sess., 1977.)"

Sec. 5. Subsection (a), Section 81.051, Natural Resources Code, is amended to read as follows:

"(a) The commission has jurisdiction over all:

"(1) common carrier pipelines defined in Section 111.002 of this code in Texas;

"(2) oil and gas wells in Texas;

"(3) persons owning or operating pipelines in Texas; and

"(4) persons owning or engaged in drilling or operating oil or gas wells in Texas. (S.B. No. 185, 65th Legis., Reg. Sess., 1977.)"

Sec. 6. The Natural Resources Code is amended by adding Section 111.0192 to read as follows:

"Section 111.0192. LIMITATIONS ON THE POWERS OF EMINENT DOMAIN IN CERTAIN SITUATIONS. (a) The right of eminent domain granted under this chapter to any pipelines transporting coal in whatever form shall not include and cannot be used to condemn water or water rights for use in the transportation of coal by pipeline, and no Texas water from any source shall be used in connection with the transportation, maintenance, or operation of a coal slurry pipeline (except water used for drinking, toilet, bath, or other personal uses at pumping stations or offices) within the State of Texas unless the Texas Water Commission shall determine, after public hearing, that the use will not be detrimental to the water supply of the area from which the water is sought to be extracted.

"(b) The right of eminent domain granted under this chapter to any pipeline transporting coal in whatever form shall not include the power to take land or any interest in land, by exercise of the power of eminent domain, for the purpose of drilling for, mining, or producing any oil, gas, geothermal, geothermal/geopressured, lignite, coal, sulphur, uranium, plutonium, or other mineral, but this provision does not impair the right of any such entity to acquire title to real property for pipelines, including cooling ponds and related surface installations and equipment. (S.B. No. 185, 65th Legis., Reg. Sess., 1977.)"

Sec. 7. The Natural Resources Code is amended by adding Section 111.0193 to read as follows:

"Section 111.0193. RESTORATION OF PROPERTY. Every condemnation award granted under this chapter shall require that the condemnor restore the property which is the subject of the award to its former condition as near as reasonably practicable. (S.B. No. 185, 65th Legis., Reg. Sess., 1977.)"

Sec. 8. Section 86.012, Natural Resources Code, is amended to read as follows:

"Section 86.012. DEFINITION OF WASTE. The term 'waste' includes:

- "(1) the operation of an oil well or wells with an inefficient gas-oil ratio;
- "(2) the drowning with water of a stratum or part of a stratum capable of producing gas in paying quantities;
- "(3) permitting a gas well to burn wastefully;
- "(4) the creation of unnecessary fire hazards;
- "(5) physical waste or loss incident to or resulting from so drilling, equipping, or operating a well or wells as to reduce or tend to reduce the ultimate recovery of gas from any pool;
- "(6) the escape of gas from a well producing both oil and gas into the open air in excess of the amount that is necessary in the efficient drilling or operation of the well;
- "(7) the production of gas in excess of transportation or market facilities or reasonable market demand for the type of gas produced;
- "(8) the use of gas for the manufacture of carbon black without first having extracted the natural gasoline content from the gas, except it shall not be necessary to first extract the natural gasoline content from the gas where it is utilized in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet of gas;
- "(9) the use of sweet gas produced from a gas well for the manufacture of carbon black unless it is used in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet and unless the sweet gas is produced from a well located in a common reservoir producing both sweet and sour gas;
- "(10) permitting gas produced from a gas well to escape into the air before or after the gas has been processed for its gasoline content, unless authorized as provided in Section 86.185 of this code;

“(11) the production of natural gas from a well producing oil from a stratum other than that in which the oil is found unless the gas is produced in a separate string of casing from that in which the oil is produced;

“(12) the production of more than 100,000 cubic feet of gas to each barrel of crude petroleum oil unless the gas is put to one or more of the uses authorized for the type of gas so produced under allocations made by the commission or unless authorized as provided in Section 86.185 of this code; and

“(13) underground waste or loss however caused and whether or not defined in other subdivisions of this section. (R.S. Art. 6008, Sec. 3 (part); H.B. No. 2254, 65th Legis., Reg. Sess., 1977.)”

Sec. 9. Section 86.185, Natural Resources Code, is amended to read as follows:

“Section 86.185. **PROHIBITION AGAINST GAS IN AIR.** No gas from a gas well may be permitted to escape into the air after the expiration of 10 days from the time the gas is encountered in the gas well, or from the time of perforating the casing opposite a gas-bearing zone if casing is set through the zone, whichever is later, but the commission may permit the escape of gas into the air for an additional time, if the operator of a well or other facility presents information to show the necessity for the escape; provided that the amount of gas which is flared under that authority is charged to the operator's allowable production. A necessity includes but is not limited to the following situations:

“(1) cleaning a well of sand or acid or both following stimulation treatment of a well; and

“(2) repairing or modifying a gas gathering system. (R.S. Art. 6008, Sec. 7 (part); H.B. No. 2254, 65th Legis., Reg. Sess., 1977.)”

Sec. 10. Subsection (a), Section 113.201, Natural Resources Code, is amended to read as follows:

“(a) Renewal registration and license fees established and assessed under this chapter are payable by midnight, August 31, of each year. (S.B. No. 1286, 65th Legis., Reg. Sess., 1977.)”

Sec. 11. Section 113.096, Natural Resources Code, is amended by adding Subsection (c) to read as follows:

“(c) All surety bonds issued under the provisions of this section shall be continuous in duration. Cancellation of such a bond becomes effective 30 days after the LPG division receives written notice of intent to cancel or upon physical delivery to the LPG division of an acceptable replacement bond and not before. (S.B. No. 1286, 65th Legis., Reg. Sess., 1977.)”

Sec. 12. Section 113.097, Natural Resources Code, is amended to read as follows:

“Section 113.097. **INSURANCE.** (a) No person may be issued a license as an authorized dealer in LPG under Section 113.082 of this code nor may an existing license be continued or renewed unless the person for as long as he continues in business as a dealer takes out and maintains with a reliable insurance carrier qualified to do business in this state the following types and amounts of insurance to guarantee payment of damages proximately resulting from the negligent acts of the person while engaged in any of the activities hereinafter set forth:

“(1) automobile bodily injury and property damage coverage on each motor vehicle, including trailers and semitrailers used to transport LPG, in an amount to be determined by the commission under reasonable rules adopted by it; but the minimum amount of the coverages shall not be less than the amounts required as proof of financial responsibility under the Texas Motor Vehicle Safety-Responsibility Act, as amended;

“(2) manufacturers and contractors liability policy in an amount to be determined by the commission under reasonable rules adopted by it; and

"(3) workmen's compensation or employer's liability coverage.

"(b) As evidence that required insurance has been secured and is in force, certificates of insurance shall be filed with the division prior to licensing and license renewal. All certificates filed under the provision of this section shall be continuous in duration. Cancellation of a certificate of insurance becomes effective upon the occurrence of any of the following events and not before:

"(1) division receipt of written notice stating the insurer's intent to cancel a policy of insurance and the passage of time thereafter equivalent to the notice period required by law to be given the insured prior to such insurance cancellation. Cancellation of certificate under this subsection is effected only when insurance evidenced by such certificate is legally cancelled;

"(2) physical delivery to the LPG division of an acceptable replacement insurance certificate;

"(3) a dealer's voluntary surrender of the dealership's LPG license and the rights and privileges conferred thereby; or

"(4) division receipt of an affidavit made by an authorized representative of an LPG licensee stating that such licensee is not actively engaging in any operations as an LPG dealership and will not engage in such operations unless and until certificates of required insurance are filed with the division. (V.A.C.S. Art. 6066d, Sec. 24; S.B. No. 1286, 65th Legis., Reg. Sess., 1977.)"

Sec. 13. Each section of this article takes effect only if and when the legislation on which it is based takes effect, but not earlier than September 1, 1977.

Sec. 14. All provisions of the Code Construction Act (Article 5429b-2, Vernon's Texas Civil Statutes) apply to this article.

Sec. 15. This restatement of the law does not change the substantive laws of this state, and unless amended by some other Act of the legislature to make a substantive change, it is the intent of the legislature that each provision of this code be interpreted to have the same meaning as the statutes from which it is derived.

Sec. 16. As each section of this article takes effect, the Act on which it is based is repealed.

Sec. 17. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 2

Amend the caption of Senate Bill No. 1207 by striking the words "and declaring an emergency."

The amendments were read.

Senator Sherman moved to concur in the House amendments.

The motion prevailed.

RECORD OF VOTE

Senator Aikin asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

SENATE BILL 970 WITH HOUSE AMENDMENT

Senator Parker called **S.B. 970** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend S.B. No. 970 as follows:

(1) On page 12, line 21, strike "Frio," and reinsert "Frio," between "Edwards," and "Gillespie".

(2) On page 17, renumber Section 8 as Section 9 and add a new Section 8 to read as follows:

Sec. 8. This Act is intended as a recodification only and no change in the law is intended by this Act.

(3) Because of the passage of H.B. No. 1729, Acts of the 65th Legislature, Regular Session, 1977, strike Subsection (a) of Section 4 and renumber Subsections (b) and (c) of Section 4 as Subsections (a) and (b).

The amendment was read.

Senator Parker moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 970** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Sherman, Jones of Harris, Brooks and Truan.

SENATE BILL 1148 WITH HOUSE AMENDMENT

Senator Aikin called **S.B. 1148** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend Senate Bill No. 1148 by striking all of the quoted Section 2 in Section 1 and substituting the following:

"Section 2. The provisions of this Act shall apply to all officers, heads of state agencies, ~~and~~ state employees, and prospective state employees incurring expenses when requested to visit a state agency, department or institution of higher education for the purpose of being interviewed and evaluated for employment.

Heads of state agencies shall mean elected state officials, excluding members of the Legislature who shall receive travel reimbursement as provided by the Constitution, appointed state officials, appointed state officials whose appointment is subject to Senate confirmation, directors of legislative interim committees or boards, heads of state hospitals and special schools, and heads of state institutions of higher education."

The amendment was read.

Senator Aikin moved to concur in the House amendment.

The motion prevailed.

SENATE RULE 74a SUSPENDED

On motion of Senator Ogg and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 368**.

SENATE BILL 368 WITH HOUSE AMENDMENT

Senator Ogg called **S.B. 368** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Substitute the following for S.B. No. 368

A BILL TO BE ENTITLED AN ACT

relating to the creation or reorganization of certain judicial districts and prosecuting attorneys for certain districts; making provisions relative to those courts and the judges of those courts; relating to the jurisdiction of certain county and district courts; providing effective dates; amending Subchapters C and D, Judicial Districts Act of 1969, as amended (Article 199a, Vernon's Texas Civil Statutes), by adding Sections 3.067-3.080 and Sections 4.006-4.007, respectively; amending Chapter 179, Acts of the 50th Legislature, Regular Session, 1947 (Article 199(130), Vernon's Texas Civil Statutes), by adding Section 1a; amending Subdivision 90, Article 199, Revised Civil Statutes of Texas, 1925, as amended; amending Sections 1 and 2 of Section 2, Chapter 184, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 199(104), Vernon's Texas Civil Statutes); amending Subsections (b) and (f), Section 6 of Section 2, Chapter 184, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 326k-62, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Subchapter C, Judicial Districts Act of 1969, as amended (Article 199a, Vernon's Texas Civil Statutes), is amended by adding Sections 3.067-3.078 to read as follows:

"Section 3.067. The 242nd Judicial District, composed of the Counties of Johnson and Somervell, is hereby created.

"Section 3.068. The 243rd Judicial District, composed of the County of Harris, is hereby created.

"Section 3.069. The 244th Judicial District, composed of the County of Travis, is hereby created.

"Section 3.070. (a) The 245th Judicial District, composed of the County of Jefferson, is hereby created.

"(b) The 245th District Court shall give preference to criminal cases.

"Section 3.071. The 246th Judicial district, composed of the County of Orange, is hereby created.

"Section 3.072. The 247th Judicial District, composed of the County of Ector, is hereby created.

"Section 3.073. (a) The 248th Judicial District, composed of the Counties of Jones and Shackelford, is hereby created.

"(b) In addition to the jurisdiction prescribed by the constitution and general laws of the state for district courts, the 248th District Court in both of the Counties of Jones and Shackelford shall have all original and appellate civil and criminal jurisdiction normally exercised by county courts under the constitution and general laws of this state.

"Section 3.074. (a) The 249th Judicial District, composed of the Counties of Potter and Randall, is hereby created.

"(b) The 249th District Court may hear and determine, in whichever county in that district is convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded in any case pending in either county in the district, regardless of whether the cases were filed in the county in which the hearing is held. The 249th District Court may, unless there is some objection filed by a party to the suit, hear, in either county in the district which is convenient for the court, any nonjury case, including but not limited to divorces, adoptions, default judgments and matters where there has been citation by publication, pending in any county in the district, regardless of whether the cases were filed in the county in which the hearing is held.

"Section 3.075. The 250th Judicial District, composed of the Counties of Hale, Swisher, and Castro, is hereby created.

"Section 3.076. (a) The 251st Judicial District, composed of the County of Dallas, is hereby created.

"(b) The 251st District Court shall give preference to criminal cases.

"Section 3.077. (a) The 252nd Judicial District, composed of the County of Dallas, is hereby created.

"(b) The 252nd District Court shall give preference to criminal cases.

"Section 3.078. The 253rd Judicial District, composed of the Counties of Polk, San Jacinto, and Trinity, is hereby created."

Sec. 2. Subchapter C, Judicial Districts Act of 1969, as amended (Article 199a, Vernon's Texas Civil Statutes), is amended by adding Section 3.079 to read as follows:

"Section 3.079. The 254th Judicial District, composed of the County of Travis, is hereby created."

Sec. 3. Subchapter C, Judicial Districts Act of 1969, as amended (Article 199a, Vernon's Texas Civil Statutes), is amended by adding Section 3.080 to read as follows:

"Section 3.080. (a) The 255th Judicial District, composed of the County of Bell, is hereby created.

"(b) The 255th Judicial District exists on the date of the general election in 1978 for purposes of the election of the judge, and at the general election in 1978 there shall be elected by the qualified voters of the 255th Judicial District, a judge of the 255th District Court for a four-year term beginning on January 1, 1979."

Sec. 4. Subchapter D, Judicial Districts Act of 1969, as amended (Article 199a, Vernon's Texas Civil Statutes), is amended by adding Sections 4.006-4.007 to read as follows:

"Section 4.006. (a) The office of the district attorney for the 248th Judicial District is created.

"(b) The district attorney shall represent the state in all felony cases before the 248th District Court in Jones and Shackelford Counties and shall perform all the duties imposed and have all the authority conferred on district attorneys by the general laws of this state.

"Section 4.007. (a) The office of district attorney for the 253rd District is created.

"(b) The district attorney shall represent the state in all felony cases before the 253rd District Court in Polk, San Jacinto, and Trinity Counties and shall perform all the duties imposed and have all the authority conferred on district attorneys by the general laws of this state."

Sec. 5. Chapter 179, Acts of the 50th Legislature, Regular Session, 1947 (Article 199(130), Vernon's Texas Civil Statutes), is amended by adding Section 1a to read as follows:

"Section 1a. (a) Notwithstanding any other provision of this Act, from and after January 1, 1981, the 130th Judicial District shall be composed of the counties of Matagorda and Wharton.

"(b) Beginning at the general election in 1980, the judge of the 130th Judicial District shall stand for election and be elected only from the counties of Matagorda and Wharton.

"(c) From and after January 1, 1981, the provisions of this Act do not apply to the 130th District Court and the judge of the 130th District Court in the counties of Brazoria and Fort Bend."

Sec. 6. Subdivision 90, Article 199, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"90. Stephens [~~Shackelford~~] and Young

"The Counties of Stephens [~~Shackelford~~] and Young shall hereafter constitute and be the 90th Judicial District of the State of Texas and the terms of the District Courts shall be held therein each as follows:

"In the County of Stephens, on the first Monday in January, April, July and October of each year and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Stephens County.

~~["In the County of Shackelford on the first Monday in February, May, August and November of each year and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Shackelford County.]~~

"In the County of Young, on the first Monday in March, June, September and December of each year and may continue in session until the date herein fixed for convening the next regular term of such Court in Young County."

Sec. 7. Sections 1 and 2 of Section 2, Chapter 184, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 199(104), Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 1. The 104th Judicial District of Texas is composed of Taylor County [~~the counties of Jones and Taylor~~].

"Section 2. [(a)] The 104th District Court shall convene [~~in Jones County on the first Monday in January of each year, and on the fifteenth Monday after the first Monday in January of each year and on the first Monday in September of each year, and each of said terms of Court in said County shall continue until the convening of the next succeeding term of court in said County.~~

[(b) Said Court shall convene in Taylor County] on the eleventh Monday after the first Monday in January of each year, and on the twenty-fourth Monday after the first Monday in January of each year and on the ninth Monday after the first Monday in September of each year, and each of said terms of Court in said County shall continue until the convening of the next succeeding term of Court in said County."

Sec. 8. Subsections (b) and (f), Section 6 of Section 2, Chapter 184, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 326k-62, Vernon's Texas Civil Statutes), are amended to read as follows:

"(b) ~~[The qualified electors of Callahan, Jones, and Taylor counties shall elect a criminal district attorney for the 42nd and 104th Judicial Districts at the general election in November 1960 for a two year term.]~~ At the general election in November 1970, and every four years thereafter, the qualified electors of Callahan; ~~Jones~~ and Taylor counties shall ~~[also]~~ elect a criminal district attorney."

"(f) The criminal district attorney is entitled to the compensation paid district attorneys by the state which is provided in the general appropriations act. The Commissioners Court of Taylor County shall supplement his state compensation in an amount not less than \$4,000 a year. The commissioners court shall also determine and pay the salaries of all employees of the criminal district attorney. The commissioners court may reimburse the criminal district attorney and his employees for their reasonable and necessary expenses incurred while performing the duties of the office. The Commissioners Court of Callahan County ~~[Commissioners Courts of Jones and Callahan Counties]~~ shall reimburse Taylor County for a part of the salaries, office and travel expense as may be agreed upon by and between the commissioners courts."

Sec. 9. (a) The County Court of Jones County and the County Court of Shackelford County shall each retain and exercise the general jurisdiction of a probate court and shall retain the power to issue all writs necessary to enforce its jurisdiction and to punish contempts. The County Court of Jones County and the County Court of Shackelford County shall have no civil or criminal jurisdiction except as to final judgments rendered prior to the effective date of this Act.

"(b) The County Attorney of Jones County and the County Attorney of Shackelford County shall each represent the state in all misdemeanor cases before the district court in each of the respective counties.

"(c) All pending civil and criminal cases in the county courts in Jones and Shackelford counties are transferred to the district court with jurisdiction in each of those counties. All writs and process issued by or out of the county courts in civil or criminal cases are returnable to the next term of the district court in each of those counties. The county court in each of those counties retains jurisdiction over judgments in civil or criminal cases rendered prior to the effective date of this Act for enforcement by execution, order of sale, or other appropriate process. If, in a civil or criminal case on appeal from the county court in either of those counties, a judgment is entered by the court of civil appeals, the supreme court, or the court of criminal appeals, remanding the case for a new trial or for further proceedings, it shall be remanded to the district court.

(d) Within 20 days after the effective date of this section, the clerk of the county court in each of the counties of Jones and Shackelford shall file with the clerk of the district court in each of those counties all original papers in cases transferred to the district court and all judges' dockets and certified copies of interlocutory judgments or other orders entered in the minutes of the county court in cases so transferred. The district clerk in each county shall immediately docket the cases on the docket of the district court in each county. All the transferred cases shall stand on the docket of the court to which they are transferred in the same manner and place as each stands on the docket of the county court. It is not necessary that the district clerk refile any papers previously filed by the county clerk. The county clerk shall accompany the papers with a certified bill of cost and shall charge accrued fees due him against all cost deposits, with the remainder of the deposit paid to the district court as a deposit in the particular case for which it was deposited. Credit shall be given the litigants for all jury fees paid in the county court.

Sec. 10. The provisions of Sections 1, 4, 5, 6, 7, 8, and 9 of this Act take on September 1, 1977. The provisions of Section 2 of this Act take effect on January 1, 1978. Except as provided in Subsection (b) of Section 3.080, the provisions of Section 3 of this Act take effect on January 1, 1979. The provisions of Section 3 of this Act take effect on January 1, 1979. The remaining sections of the Act take effect according to the provisions of the Act.

Sec. 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Ogg moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 368 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ogg, Adams, Clower, Parker and Santiesteban.

SENATE BILL 157 WITH HOUSE AMENDMENTS

Senator Meier called S.B. 157 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Substitute the following for S.B. No. 157:

A BILL TO BE ENTITLED

AN ACT

relating to the admission in evidence and use of statements of an accused in a criminal proceeding; making certain false statements subject to prosecution for aggravated perjury; amending Articles 38.21 and 38.22, Code of Criminal Procedure, 1965, as amended; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Article 38.21, Code of Criminal Procedure, 1965, is amended to read as follows:

"Article 38.21. STATEMENT [CONFESSION]. A statement of an accused [The confession of a defendant] may be used in evidence against him if it appears [appear] that the same was freely and voluntarily made without compulsion or persuasion under the rules hereafter prescribed."

Sec. 2. Article 38.22, Code of Criminal Procedure, 1965, as amended, is amended to read as follows:

"Article 38.22. WHEN STATEMENTS MAY ~~[ORAL AND WRITTEN CONFESSIONS SHALL]~~ BE USED.

"Section 1. In this article, a written statement of an accused means a statement signed by the accused or a statement made by the accused in his own handwriting or, if the accused is unable to write, a statement bearing his mark, when the mark has been witnessed by a person other than a peace officer.

"Section 2. No written statement made by an accused as a result of custodial interrogation is admissible as evidence against him in any criminal proceeding unless it is shown that:

"(a) the accused, prior to making the statement, either received from a magistrate the warning provided in Article 15.17 of this code or received a warning that:

"(1) he has the right to remain silent;

"(2) any statement he makes may be used as evidence against him in court;

"(3) he has the right to have a lawyer present to advise him prior to and during any questioning;

"(4) if he is unable to employ a lawyer, he has the right to have a lawyer appointed to advise him prior to and during any questioning; and

"(5) he has the right to terminate the interview at any time; and

"(b) the accused, prior to and during the making of the statement, knowingly, intelligently, and voluntarily waived the rights set out in the warning prescribed by Subsection (a) of this section.

"Section 3. (a) No oral statement of an accused made as a result of custodial interrogation is admissible as evidence against him in any criminal proceeding unless it is shown that:

"(1) an electronic recording, which may include motion picture, video tape, or other visual recording, is made of the statement;

"(2) prior to the statement but during the recording the accused is told that a recording is being made;

"(3) prior to the statement but during the recording the accused is given the warning in Subsection (a) of Section 2 above and the accused knowingly, intelligently, and voluntarily waives any rights set out in the warning that he does not assent;

"(4) it is shown that the recording device was capable of making an accurate recording, that the operator was competent, and that the recording is accurate and has not been altered;

"(5) the statement is witnessed by at least two persons; and

"(6) all voices on the recording are identified.

"(b) Subsection (a) of this section shall not apply to any statement which contains assertions of facts or circumstances that are found to be true and which conduce to establish the guilt of the accused, such as the finding of secreted or stolen property or the instrument with which he states the offense was committed.

"(c) When a statement under Subsection (a) of this section is made in connection with an official proceeding, any person who swears to a false statement under Subsection (a) of this section is presumed to have acted with intent to deceive and with knowledge of the statement's meaning for the purpose of prosecution for aggravated perjury under Section 37.03 of the Penal Code. No person prosecuted under this subsection shall be eligible for probation.

"Section 4. Nothing in this article precludes the admission of a statement made by the accused in open court at his trial, before a grand jury, or at an examining trial in compliance with Articles 16.03 and 16.04 of this code, or of a statement that is the res gestae of the arrest or of the offense, or of a statement that

does not stem from custodial interrogation, or of a voluntary statement, whether or not the result of custodial interrogation, that has a bearing upon the credibility of the accused as a witness, or of any other statement that may be admissible under law.

~~[1. The oral or written confession of a defendant made while the defendant was in jail or other place of confinement or in the custody of an officer shall be admissible if:~~

~~“(a) it is shown to be the voluntary statement of the accused taken in the presence of an examining court in accordance with law; or~~

~~“(b) it be made in writing and signed by the accused, and show that the accused has at some time prior to the making thereof received from the person to whom the statement is made the warning set out in Subsection (c)(1), (2) and (3) below or received from the magistrate the warning provided in Article 15.17, and shows the time, date, and place of the warning and the name of the person or magistrate who administered the warning; or~~

~~“(c) it be made in writing to some person who has warned the defendant from whom the statement is taken that~~

~~“(1) he has the right to have a lawyer present to advise him either prior to any questioning or during any questioning,~~

~~“(2) if he is unable to employ a lawyer, he has the right to have a lawyer appointed to counsel with him prior to or during any questioning, and~~

~~“(3) he has the right to remain silent and not make any statement at all and that any statement he makes may be used in evidence against him at his trial.~~

~~“The defendant must knowingly, intelligently, and voluntarily waive these rights prior to and during the making of the statement.~~

~~“(d) If a written statement is taken and if the defendant is unable to write his name and signs the statement by making his mark, such statement shall not be admitted in evidence, unless it be witnessed by some person other than a peace officer, who shall sign the same as witness.~~

~~“(e) It be made orally and the defendant makes a statement of facts or circumstances that are found to be true, which conduce to establish his guilt, such as the finding of secreted or stolen property, or the instrument with which he states the offense was committed.~~

~~“(f) Nothing contained herein shall preclude the admissibility of any statement made by the defendant in open court at his trial or at his examining trial in compliance with Articles 16.03 and 16.04 or of any statement that is the res gestae of the arrest or of the offense.]~~

“Section 5. [2.] In all cases where a question is raised as to the voluntariness of a [confession or] statement of an accused, the court must make an independent finding in the absence of the jury as to whether the [confession or] statement was made under voluntary conditions. If the [confession or] statement has been found to have been voluntarily made and held admissible as a matter of law and fact by the court in a hearing in the absence of the jury, the court must enter an order stating its conclusion as to whether or not the statement was voluntarily made, along with the specific finding of facts upon which the conclusion was based [findings], which order shall be filed among the papers of the cause. Such order shall not be exhibited to the jury nor the finding thereof made known to the jury in any manner. Upon the finding by the judge as a matter of law and fact that the [confession or] statement was voluntarily made, evidence pertaining to such matter may be submitted to the jury and it shall be instructed that unless the jury believes beyond a reasonable doubt that the [confession or] statement was voluntarily made, the jury shall not consider such statement [or confession] for any purpose nor any evidence obtained as a result thereof. In any case where a motion to suppress the statement [or confession] has been filed and evidence has been submitted to the

court on this issue, the court within its discretion may reconsider such evidence in his finding that the statement ~~[or confession]~~ was voluntarily made and the same evidence submitted to the court at the hearing on the motion to suppress shall be made a part of the record the same as if it were being presented at the time of trial. However, the state or the defendant shall be entitled to present any new evidence on the issue of the voluntariness of the statement ~~[or confession]~~ prior to the court's final ruling and order stating its findings.

"Section 6. [3.] When the issue is raised by the evidence, the trial judge shall appropriately instruct the jury, generally, on the law pertaining to such statement ~~[or confession]~~."

Sec. 3. This Act applies only to statements made on or after its effective date.

Sec. 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 1

Amend **C.S.S.B. 157** on page 2, line 2, by inserting between "shown" and "that", the following:

"on the face of the statement"

Floor Amendment No. 2

Amend **C.S.S.B. 157** on page 2, line 5, by inserting between "received" and "a", the following:

"from the person to whom the statement is made"

Floor Amendment No. 3

Amend **C.S.S.B. 157** on page 2, line 6, by inserting after the word "silent" the following:

"and not make any statement at all and that any statement he makes may be used against him at his trial"

Floor Amendment No. 4

Amend **C.S.S.B. 157** on page 3, line 4 by striking after the word "warning", the following:

"that he does not assent"

Floor Amendment No. 5

Amend **C.S.S.B. 157** on page 3, line 5, by deleting the following phrase:

"it is shown that"

Floor Amendment No. 6

Amend **C.S.S.B. 157** on page 3, line 10, by inserting a new subsection (b) as follows:

“(b) Every electronic recording of any statement made by an accused during custodial interrogation must be preserved until its destruction is permitted by order of a district court of this state.”

and reletter subsequent subsections accordingly.

Floor Amendment No. 7

Amend **C.S.S.B. 157** on page 3, line 15, by deleting subsection (c) in its entirety and in lieu thereof insert a new Section 4, as follows:

“When any statement, the admissibility of which is covered by this article, is sought to be used in connection with an official proceeding, any person who swears falsely to facts and circumstances which, if true, would render the statement admissible under this article is presumed to have acted with intent to deceive and with knowledge of the statement’s meaning for the purpose of prosecution for aggravated perjury under Section 37.03 of the Penal Code. No person prosecuted under this subsection shall be eligible for probation.”

and renumber subsequent sections accordingly.

The amendments were read.

Senator Meier moved to concur in the House amendments.

Senator Jones of Harris made the substitute motion that the Senate not concur in House amendments and that a Conference Committee be appointed.

The motion to not concur in House amendments was lost by the following vote: Yeas 12, Nays 19.

Yeas: Brooks, Clower, Doggett, Jones of Harris, Longoria, Mauzy, McKnight, Parker, Santiesteban, Schwartz, Sherman, Truan.

Nays: Adams, Aikin, Andujar, Braecklein, Creighton, Farabee, Hance, Harris, Jones of Taylor, Kothmann, Lombardino, Meier, Mengden, Moore, Ogg, Patman, Snelson, Traeger, Williams.

On motion of Senator Meier and by unanimous consent, the motion to concur in House amendments was withdrawn.

HOUSE BILL 1 REREFERRED

Senator Hance moved that **H.B. 1** be rereferred from the Committee on Economic Development to the Committee on Finance.

Question on the motion to refer **H.B. 1** from the Committee on Economic Development to the Committee on Finance, “Yeas” and “Nays” were demanded.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Creighton, Harris, McKnight, Mengden, Moore.

SENATE BILL 450 WITH HOUSE AMENDMENT

Senator Mauzy called **S.B. 450** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend S.B. No. 450 on line 7, page 3, by striking through the figure "\$25,000" and placing it in brackets and adding immediately thereafter the word "\$100,000".

The amendment was read.

Senator Mauzy moved to concur in the House amendment.

The motion prevailed.

SENATE RESOLUTION 740

Senator Aikin offered the following resolution:

BE IT RESOLVED by the Senate that the Senate Conferees be authorized to make the following changes in the Conference Committee Report on House Bill 510.

ARTICLE I

A. To change, alter, or amend text which is not in disagreement in the following respects:

1. On page I-14, Judiciary Section - Comptroller's Department, change the number 230 in item 1, salaries for District Judges and Criminal District Judges to 253. This accurately reflects the number of judges to be paid and includes new judgeships created.

2. On page I-15, Judiciary Section - Comptroller's Department, change the number 69 in item 4, Salaries for District Attorneys, to 70. This change accurately reflects the number of District Attorneys to be paid and includes new district attorneys created.

B. To add the following text on matters which are not included in either House or Senate versions of the bill:

1. On page I-16, Judiciary Section - Comptroller's Department, add the following language for item 11 (District Attorney's expenses) in lieu of the language appearing therein:

For the payment of salaries of assistant district attorneys, investigators, and/or secretarial help and expenses including travel for these personnel, as determined by the District Attorneys, Criminal District Attorneys and County Attorneys designated in items four, seven, eight, nine, thirteen and fourteen above. The payment shall not exceed \$15,000 per district per year in multi-county districts and \$7,200 per district per year in single county districts and shall be made in three equal installments issued on the first day of September, January and May of each fiscal year. These payments shall be made directly to the District Attorney, Criminal District Attorney or County Attorney for the purposes of disbursement as required by the Attorney. The Attorney receiving these payments shall be responsible to the Comptroller for accounting for all expenditure of these funds. This change will allow a differential between multi-county district attorneys and single district attorneys and will allow payments to be made directly to the appropriate attorney.

C. To allow amounts to exceed the larger or be less than the smaller of either the Senate or the House version of the bill as follows:

1. On page I-1, Courts of Civil Appeals, First District, Houston, change the amount in item 5, Secretary I (0131) to \$7,812 in 1978 and \$8,076 in 1979 to equalize this salary with comparable salary paid in the Fourteenth District, Houston.

D. To allow amounts to exceed the sum specified for an item which appears in only one version as follows:

1. On page I-7, Eleventh District, Eastland, change the amount for the Attorney I item to \$29,736 in 1979. This corrects a calculation error in salaries.

E. To allow the addition of the following items not included in either the House or Senate version of the bill:

1. On page I-17, Judiciary Section - Comptroller's Department, add a new item for enactments of the Sixty-Fifth Legislature relating to the Judiciary in an amount of \$925,100 in 1978 and \$949,400 in 1979. This provides funding for new legislation already passed both houses of the Legislature.

2. On page I-11, Court of Criminal Appeals, add a new contingency item to fund the costs of an expanded court in the event that the constitutional amendment proposed by Senate Joint Resolution No. 18 is adopted.

This change funds expansion of the court from six to nine judges.

ARTICLE II

A. To add the following text on matters which are not included in either House or Senate versions of the bill:

1. On page II-16, Texas Department of Health Resources, add the following language in lieu of the last paragraph appearing on the page:

The General Revenue Funds appropriated above in item 3.b(4), Dental Health Services, shall be limited to providing the delivery of direct care services to indigent children through the age of 18 years. General Revenue Funds not to exceed \$98,000 per year may be expended to provide a pilot project for educational and preventive

services in four counties to be designated by the Board of Health Resources. In allocating these funds, the Department of Health Resources shall develop and utilize uniform eligibility criteria for all areas of the state.

This change is intended to clearly specify how General Revenue Funds appropriated for Dental Health Services are to be spent.

2. On page II-17, Texas Department of Health Resources, add the following paragraph immediately preceding the section titled "Chest Hospitals":

Funds appropriated above in item 3.b(3)(h), Hemophilia Assistance, are contingent upon passage of Senate Bill No. 120, Sixty-fifth Legislature (1977).

This change makes the appropriation of funds for hemophilia assistance contingent on the passage of the Senate bill requiring such a program.

3. On page II-17, Texas Department of Health Resources, East Texas Chest Hospital, add the following paragraph:

Contingent upon passage of Senate Bill No. 1300, Sixty-fifth Legislature (1977), all patient fees collected by the East Texas Chest Hospital are hereby reappropriated to the hospital.

This change was made to provide for Senate Bill No. 1300 which makes the East Texas Chest Hospital part of the U.T. System. The rider insures that, if the Senate bill passes, all patient fees would continue to be available for East Texas Chest Hospital.

4. On page II-48, Department of Public Welfare, add ".B." to the 1979 appropriation for the Hope Center for Youth. This addition is a technical correction to the Senate bill.

5. On page II-57, Department of Public Welfare, change rider number 39 by adding ".B." directly before the text "in the 1979 fiscal year". This addition is a technical correction to the Senate Bill.

6. On page II-60, Department of Public Welfare, add a final rider to read as follows:

Out of unexpended balances appropriated to the Department of Public Welfare for Chiropractic Services for the fiscal year ending August 31, 1977, there is hereby reappropriated to the Department of Public Welfare for Chiropractic Services an amount not to exceed \$150,000 each year for fiscal years 1978 and 1979.

The large unexpended balances currently on hand make it unnecessary to fund this program with new dollars.

7. At page II-60, Department of Public Welfare, add the following:

There is hereby appropriated to the Department of Public Welfare, contingent upon passage and approval of **H.B. 1755**, 65th Legislature, \$1,423,023 state and federal funds (State's part \$142,302 General Revenue) for fiscal year 1978, and \$1,425,291 state and federal funds (State's part \$142,529 General Revenue) for fiscal year 1979, for the purpose of establishing an AFDC Employment and Education Pilot Project in accordance with **H.B. 1755**.

8. On page II-71, Special Provisions, add the following language in lieu of section (7)c., "Unexpended Balances":

c. **UNEXPENDED BALANCES.** (1) Department of Health Resources: All unexpended balances not otherwise restricted from appropriations to chest hospitals and the Bureau of Tuberculosis Services at the close of the fiscal year ending August 31, 1978 are reappropriated for the fiscal year beginning September 1, 1978 and may be reallocated by the Board of Health Resources to any chest hospital or the Bureau of Tuberculosis Services for such purposes as are approved by the Board of Health Resources.

This change in language carries the intent of the original Senate language, but makes the rider conform technically to other decisions of the conference committee.

9. On page II-80, Special Provisions, add the following language as a continuation of the final sentence of Section 15 which deals with unexpended balances for the Texas Youth Council: "not to exceed a total amount of \$2,000,000 for the biennium. An amount, not to exceed \$354,750 for fiscal year 1978 and \$1,104,000 for fiscal year 1979 is specifically appropriated from those funds for addition to appropriation item 5.f., 'Community Assistance'. These funds may be used to direct children from the Texas Youth Council system by paying county probation departments \$4,500 per year per diversion. Funds not expended in fiscal year 1978 are hereby reappropriated for the same purpose in fiscal year 1979." This change will allow the agency to use unexpended balances remaining because of difficulties encountered in implementing a new program.

B. To allow amounts to exceed the larger or be less than the smaller of either the Senate or the House version of the bill as follows:

1. On page II-19, Texas Health Facilities Commission, increase the item "Salaries of Classified Positions" to \$354,313 in 1978 and \$366,389 in 1979. This change reflects the inclusion of an exempt position into classified salaries.

2. On page II-19, Texas Health Facilities Commission, Schedule of Classified Positions, increase the number of positions authorized for Administrative Secretary (Group 9, classification #0138) from two to three. This change provides increased administrative capacity for the agency to meet expected increases in work load.

2. a. On pages II-20 through 41, Department of Mental Health and Mental Retardation, reduce the amounts for utilities by 25% in fiscal year 1979.

This change will allow the same reduction in utilities applied to the Department of Corrections, colleges and universities and medical schools.

3. On page II-42, Rehabilitation Commission, change the amounts in item 7, Case Services, to \$35,896,602 in 1978 and \$35,746,602 in 1979. This change allows the application of federal funds generated by additional program amounts in the Senate version and adopted by the conference committee.

4. On page II-43, Rehabilitation Commission, change the amount for the Assistant Commissioner to \$29,600 in 1978 and \$30,600 in 1979. This change is due to an error in calculation which set the salary at a higher rate than was authorized.

5. On page II-48, Department of Public Welfare, increase the item 4i, Purchased Health Services Program Support, to \$6,135,653 in 1978 and \$6,418,227 in 1979. This change reflects a correction of an error in the original budget request of the Department of Public Welfare.

C. To allow the addition of the following items not included in either the House or Senate version of the bill:

1. On page II-25, Department of Mental Health and Mental Retardation, Construction Program, add the following item in lieu of item 22:

	<u>1978</u>	<u>1979</u>
22. Architectural Planning and Design Fees	\$ 619,000	\$ U.B.

This change provides for the development of an architectural plan for the construction of a research, treatment, and training center for the Texas Research Institute of Mental Sciences.

2. On page II-48, Department of Public Welfare, add a new subitem as follows:

"Non-recurring payments for AFDC children totaling \$60 per child on an annual basis to be made at the discretion of the Board of Public Welfare", at \$13,563,000 in 1978 and \$12,573,000 in 1979. This change provides additional funds to AFDC children without adversely impacting income eligibility. This change provides funding for increasing assistance payments for AFDC children. The rate was set at \$5.00 per month per child and payment will be made in a lump sum payment of \$30.00 semi-annually to AFDC children. It is estimated there will be 226,050 eligible children in fiscal year 1978 and 209,550 in fiscal year 1979. Based on these estimates, the payments will amount to \$13.6 million in fiscal year 1978 and \$12.6 million in fiscal year 1979. House Bill 510 provided for a \$3.00 a month increase in assistance payments. For the 1978-1979 biennium, \$30.2 million state funds would have been required. An additional \$13.3 million would have been required for vendor drugs, purchased health insurance premiums and other AFDC related programs. The \$30.00 semi-annual payment to each child does not count toward the income when determining the food stamp and low rent housing eligibility. If the \$3.00 monthly payment had been made, it would have counted as income so far as food stamps were concerned and would have reduced the net amount of the increase to \$2.00 per child per month.

ARTICLE III

A. To add the following text on matters which are not included in either House or Senate versions of the bill:

1. On page III-12, Department of Agriculture, add the following new paragraph which reads as follows:

In the event of passage of House Bill No. 1646, the financing of appropriations shown above for the Department of Agriculture shall be from the General Revenue Fund.

This change is contingent upon passage of House Bill No. 1646 which would provide for the total financing of this agency from the General Revenue Fund.

2. On page III-24, Animal Health Commission, add the following rider paragraph in lieu of the last paragraph on the page:

Funds appropriated above for Brucellosis include \$236,400 in fiscal year 1978 and \$291,600 in fiscal year 1979 which may be used for paying the direct costs of a brucellosis calfhood vaccination program in the event that such a program is required by federal rules and regulations or in the event of a state emergency requiring such a program. If a calfhood vaccination program is implemented, separate accounts shall be maintained for the amounts specified above and expenditure of these funds cannot be used for departmental salaries, travel, or operating expense.

This change makes it possible to meet federal requirements or a state emergency relative to Brucellosis without obligating additional state funds solely for these purposes.

3. On page III-42, Comptroller of Public Accounts, add the following rider paragraph immediately preceding the section titled "Voter Registration":

In the event that Senate Bill No. 513, Sixty-fifth Legislature, Regular Session, should pass and become law, the Comptroller shall transfer \$57,585 in fiscal year 1978 and \$59,001 in fiscal year 1979 from appropriations in item 1.f., Budget and Evaluation, above, to the State Board of Control, item 6.d., Support of Building and Property Services.

Senate Bill No. 513 transfers responsibility for the State Property Inventory Report from the Comptroller to the State Board of Control. In the event of the bill's passage, this change transfers the necessary funds to the State Board of Control to carry out the purposes of the legislation.

4. On page III-31, Attorney General's Office, add the following new paragraph which reads as follows:

In program item 6, transfers may be made between sub-items 6.a. and 6.b. Funds in item 6.c. may only be expended to implement the provisions of Senate Bill 37, if enacted by the Sixty-fifth Legislature, Regular Session, 1977.

This change makes item 6.c. non-transferable to insure that these funds are only used for implementation of Senate Bill No. 37.

5. On page III-51, Department of Corrections on items 3.4., "Food Service", add the phrase "(non-transferable)."

This change insures that the Department of Corrections will spend all appropriated amounts for Food Service.

6. On page III-81, Board of Examiners in the Fitting and Dispensing of Hearing Aids, add a rider paragraph to read as follows:

In addition to the amounts shown above, there is hereby appropriated, contingent upon passage of House Bill No. 2172, Acts of the Sixty-fifth Legislature,

to the Board of Examiners in the Fitting and Dispensing of Hearing Aids, for per diem: \$2,200 in FY 1978 and \$2,200 in FY 1979, for Program Administration, an additional \$2,700 in FY 1978 and \$2,500 in FY 1979.

House Bill No. 2172 authorizes the payment of additional per diem and raises licensing fees. This new rider provides the language necessary to implement the provisions of the bill contingent on its passage.

7. On page III-87, State Department of Highways and Public Transportation, add language to rider number one to allow for the operation of more than one cafeteria.

This change authorizes the Department to operate additional cafeterias in its headquarters in Austin.

8. On page III-92, Industrial Accident Board, add language to the last rider paragraph on the page to provide contingency funding of \$187,940 in 1978 and \$190,605 in 1979.

This change insures that, if funds available in the Workmen's Compensation Fund No. 94 do not cover all fund obligations, additional General Revenue dollars are available for the agency's use.

9. On page III-92, Industrial Accident Board, add the following final rider paragraph immediately preceding the Schedule of Classified Positions, Industrial Accident Board:

In the event of passage of Senate Bill 135, the financing of appropriations shown above for the Industrial Accident Board shall be from the General Revenue Fund.

Senate Bill No. 135 eliminates the agency's Workmen's Compensation Fund and funds agency operations totally from General Revenue. This new rider provides language to implement the provisions of the bill contingent on its passage.

10. On page III-94, Industrial Accident Board, add the number "9" in lieu of the number "8" after the position of Clerk Typist II in Group 4 of the Schedule of Classified Positions.

This change is a technical correction.

11. On page III-93, Industrial Commission, add the following final rider provision:

From the funds appropriated in item 4 above for Community Development, the Texas Industrial Commission shall allocate \$14,288 each fiscal year for the operation of the Advisory Council on Small Business Assistance.

This change provides funds for travel for members of the Advisory Council on Small Business Assistance.

12. On page III-106, Department of Labor and Standards, add the following new paragraph which reads as follows:

Reimbursements for travel expenses are hereby reappropriated to the Texas Department of Labor and Standards in accordance with Senate Bill No. 305 and House Bill No. 760, Acts of the Sixty-fifth Legislature.

This change insures that travel expenses authorized in House Bill No. 760 and Senate Bill No. 305 may be paid for the 1978-1979 biennium.

13. On page III-108, General Land Office and Veterans' Land Board, add the following new paragraph which reads as follows:

Contingent upon the adoption of a constitutional amendment authorized by Senate Joint Resolution No. 13, Acts of the Sixty-fifth Legislature, 1977, there is hereby appropriated the additional sum of \$250,000 each fiscal year to line item 5.a. above "Applications and New Contracts". The method of financing for this appropriation shall be one-half from the General Revenue Fund and one-half from Fund No. 52.

This change is to fund Senate Joint Resolution No. 13, Acts of the Sixty-fifth Legislature upon passage.

14. On page III-113, Commission on Law Enforcement Officer Standards and Education, add the following final rider paragraph:

Funds specified above in the method of financing from Criminal Justice Planning Funds are appropriated from the unexpended balances of such funds pursuant to Section 10, Chapter 935, Acts, 1971, Sixty-second Legislature (Article 1083, V.A.C.S.). Criminal Justice Grants Funds received in excess of the amounts shown for fiscal year 1978 shall reduce the appropriations made from Criminal Justice Planning Funds in like amounts.

This new rider provides that, if federal Criminal Justice Grants Funds exceed estimated receipts, amounts appropriated from the state's Criminal Justice Planning Funds would be reduced by a like amount.

15. On page III-116, Board of Medical Examiners, add the following new paragraph which reads as follows:

Funds appropriated above in item 3 are contingent upon passage of House Bill No. 1048, Sixty-fifth Legislature, 1977.

This change provides funds for a regional review panel upon passage of House Bill No. 1048.

16. On page III-131, Parks and Wildlife Department, add the following new paragraph which reads as follows:

Any funds transferred to the Parks and Wildlife Department from balances available to the Coastal and Marine Council in the Liberty Ship Artificial Reef account shall be expended only for purposes authorized in and contemplated by Senate Bill No. 432 and Senate Bill No. 624 of the Sixty-fifth Legislature, provided however, excess funds may be used at the discretion of the Commission for boat ramp construction. The Comptroller shall transfer such funds only on authorization of the Coastal and Marine Council. There is also hereby appropriated any revenues generated by Senate Bill No. 624, Acts of the Sixty-fifth Legislature to be used for collection of redfish data and enforcement activities as provided in said Act.

This change allows for the expenditure of funds for the purposes stated above.

17. On page III-131, Parks and Wildlife Department, add the following new paragraph which reads as follows:

In order to comply with the requirements of P. L. 94-265 (The Fishery Conservation and Management Act of 1976), the Parks and Wildlife Department is authorized to accept and use grants, allocations, or aids from the federal government, and such funds are appropriated in addition to the amounts specified above, but limited to the purposes for which they are intended or made.

This change authorizes the Parks and Wildlife Department to accept and expend any federal funds which become available.

18. On page III-131, Parks and Wildlife Department, add the following new paragraph which reads as follows:

It is the intent of the Legislature that the Department shall not limit the travel of game wardens.

This change indicates that these personnel be given priority in terms of allocation of travel funds.

19. On page III-139, Railroad Commission, add the following new paragraph which reads as follows:

The Railroad Commission shall expend funds collected and deposited in the Land Reclamation Fund for the purposes set out in Article 5920-10, V.A.T.S., as amended. All funds shall be expended through the program item "Regulation of Surface Mining and Reclamation."

This change allows the Railroad Commission to expend moneys from a special fund created by the Sixty-fourth Legislature, Regular Session, 1975.

20. On page III-139, Railroad Commission, add a new paragraph exempting the Commission from the provision in Article V dealing with the funding of publications issued by state agencies.

This change will allow the Commission to continue to issue material containing pertinent information.

21. On page III-145, Department of Public Safety, add the following final rider paragraph:

In the event Senate Bill No. 549, Sixty-fifth Legislature, Regular Session, 1977, should pass and become law, the Comptroller of Public Accounts is hereby directed to adjust the method of financing shown above by decreasing the amounts from General Revenue by \$5,200,000 in 1978 and \$5,400,000 in 1979 and increasing the amounts from the Operator's and Chauffeur's License Fund No. 099, accordingly.

Senate Bill No. 549 diverts additional funds to the Operator's and Chauffeur's License Fund No. 099. This rider provides that contingent on passage of the bill, General Revenue appropriations to the Department be reduced and the additional

amounts available in the Operator's and Chauffeur's License Fund No. 099 be used in their place.

22. On page III-158, Public Utilities Commission, add the following final rider paragraph:

Any unexpended balances left in the emergency appropriation made by Senate Bill No. 536 to the Public Utilities Commission as of August 31, 1977 are hereby reappropriated for the same purposes for the fiscal year beginning September 1, 1977.

Senate Bill No. 536, passed by the Sixty-fifth Legislature, provides emergency appropriations to the Public Utilities Commission to enable the agency to meet its heavy work load demands. This new rider permits the agency to carry these emergency funds forward to the 1978 fiscal year.

23. On page III-160, Board of Veterinary Medical Examiners, add the following new paragraph which reads as follows:

Contingent upon the passage of House Bill No. 1897, Sixty-fifth Legislature, Regular Session, there is hereby additionally appropriated to item 3, "Other Administration", above, from revenues received during each year of the biennium beginning with the effective date of this Act, and from any balance on hand at the beginning of the biennium in the Veterinary Fund (No. 35) the following amounts: \$2,640 in fiscal year 1978 and \$4,440 in fiscal year 1979.

This change is to fund House Bill No. 1897, Acts of the Sixty-fifth Legislature upon passage.

B. To delete the following items appearing in both the House and Senate versions of the bill:

1. On page III-71, Good Neighbor Commission, delete item 1.b., "Deputy Director", at \$19,500 and \$20,200.

This change eliminates the position of Deputy Director and shifts these funds into classified positions.

C. To allow amounts to exceed the larger or be less than the smaller of either the Senate or the House version of the bill as follows:

1. On page III-5, Texas Aeronautics Commission, change item 1.b., "Other Administration", to \$150,769 in 1978.

This change provides an additional \$18,000 for rent in 1978 required because the agency is being moved from a state office building into outside facilities.

2. On page III-26, Board of Architectural Examiners, reduce item 2, "Executive Director", to \$30,000 in 1978 and \$30,000 in 1979.

This change holds the executive director at his current salary due to large salary increases granted this position during the last two bienniums.

3. On page III-51, Department of Corrections, decrease item 3.i., "Utilities (non-transferable)" to \$5,262,484 in 1978 and \$4,556,535 and U.B. in 1979.

This change reflects the across-the-board reduction of purchased utilities by 25 percent.

4. On page III-92, Industrial Accident Board, increase item 1.d., "Assistant Executive Director", to \$25,200 in 1978 and \$26,200 in 1979.

This change raises the salary of the assistant executive director to a level comparable to other state positions of equal responsibility.

5. On page III-139, Real Estate Commission, increase item 1.b., "Administrator", to \$32,000 in 1978 and \$33,000 in 1979.

This change raises the salary of this position to a level comparable to other state positions of equal responsibility.

6. On page III-146, Secretary of State, increase item 2.d., "Training and Monitoring", to \$126,951 in 1978 and \$131,980 in 1979.

This change provides for additional funding of \$25,000 a year for monitoring of elections.

7. On page III-152, Office of State-Federal Relations, increase item 5., "Other Administration" to \$223,749 in 1978 and \$226,730 in 1979.

This change provides the agency with increased General Revenue Funding for energy and energy-related programs which had previously been funded through contracts.

8. On page III-157, Public Utilities Commission, change the Schedule of Exempt Positions by increasing the following positions to the indicated amounts: Director of Hearings to \$34,400 in 1978 and \$35,600 in 1979; Director of Accounting to \$34,400 in 1978 and \$35,600 in 1979; Director of Engineering to \$34,400 in 1978 and \$35,600 in 1979; and Director of Economic Research to \$34,400 in 1978 and \$35,600 in 1979.

These increases equalize current salary differences among positions of similar responsibility within the agency.

D. To allow amounts to exceed the sum specified for an item which appears in only one version as follows:

1. On page III-123, Parks and Wildlife Department, increase item 16 "For allocation to the Lyndon B. Johnson School of Public Affairs of The University of Texas at Austin out of the Texas Parks Fund No. 31 for the costs connected with the Natural Area Survey Project", to \$130,000 in 1978 and \$130,000 in 1979.

This change provides for additional surveys to be conducted by the L.B.J. School of Public Affairs for the Parks and Wildlife Department.

E. To allow the addition of the following items not included in either the House or Senate version of the bill:

1. On page III-31, Attorney General's Office, add a new item 6.c., "For Administration of Senate Bill No. 37, Sixty-fifth Legislature, Regular Session, 1977", at \$150,000 in 1978 and U.B. in 1979.

This change is for the administration of Senate Bill No. 37 which provides for the defense of public employees by the Attorney General.

2. On page III-38, Texas Coastal and Marine Council, add a new item 7, "Contract Work for Studies, Fees and Services Relating to the Comprehensive Assessment and Planning for Coastal and Marine Affairs Pursuant to Article 4413(38), V.A.C.S.", at \$205,000 in 1978 and U.B. in 1979.

This change provides for funding of studies authorized by the Sixty-fifth Legislature.

3. On page III-61, Dental Examiners, add a new contingency item appropriating funds from Senate Bill No. 657, contingent upon it being enacted into law.

This change will allow expenditure of revenues generated by the increase in fees.

4. On page III-64, Employees Retirement System, add an item 9 which reads as follows:

	For the Years Ending	
	August 31, 1978	August 31, 1979
9. There is hereby appropriated, contingent upon the passage of Senate Bill No. 20, Sixty- fifth Legislature, Regular Session, from the several funds from which employees receive compensation, sufficient amounts to provide the state contribution of the employee's share, estimated to be:		
Out of the General Revenue Fund		\$ 64,747,256
Out of the Highway Fund		15,050,915
Out of the Unemployment Compensation Administration Fund		4,143,022
Out of Other Special Funds		<u>20,715,111</u>
Total Social Security, State's Contribution, estimated to be	\$99,090,708	\$217,176,495

This change provides for the payment of additional Social Security benefits of public employees by the state in 1979.

5. On page III-69, Board of Registration for Professional Engineers, add an item 5 which reads as follows: "For purchase of Land and Construction of Building in Austin, Texas", at \$800,000 in 1978 and U.B. in 1979.

This change provides funds for construction of a facility to house the agency.

6. On page III-73, Office of the Governor, add the following item 6, "For all necessary expenses related to activities of the Commission on the Status of Women", at \$25,000 in 1978 and \$25,000 in 1979.

This change is to fund a committee to study the status of women.

7. On page III-73, Office of the Governor, add the following item 7, "For all Necessary Costs and Expenses of the Inauguration of the Governor and Lieutenant Governor, Contingent on Senate Bill No. 458 Passing and Become Law.", at \$100,000 in 1979.

This change is to fund the ceremonies surrounding the inauguration of the Governor and Lieutenant Governor.

8. On page III-73, Office of the Governor, add the following sub-heading, "Texas Energy Advisory Council", and the following item which reads, "Out of the General Revenue Fund: There is hereby appropriated to the Office of the Governor for allocation to the Texas Energy Advisory Council to implement the provisions of Senate Bill No. 1172, Acts of the Sixty-fifth Legislature, Regular Session, including salaries of exempt and classified positions, professional fees and services, part-time and seasonal help, travel, consumable supplies and materials, current and recurring operating expenses, capital outlay, and all other activities for which no other provisions are made" at \$250,000 in 1978 and U.B. in 1979.

This change authorizes the Governor's Office to set up the Texas Energy Advisory Council in line with Senate Bill No. 1172.

9. On page III-112, Commission on Law Enforcement Officer Standards and Education, add the following new item under the Method of Financing: "Law Enforcement Officer Standards Fund", at \$686,805 in 1978 and \$1,401,862 in 1979.

This change authorizes funding from a new source of state revenue created by the Sixty-fifth Legislature.

10. On page III-113, Library and Historical Commission, add a line item 8 as follows:

	<u>1978</u>	<u>1979</u>
8. For allocation to the Texas County Records Inventory Project for costs connected with the survey of local records in all 254 counties of Texas	\$ 50,000	\$ 50,000

This change provides funding to survey and preserve historical county records in Texas.

11. On page III-115, Board of Medical Examiners, add a new item, "Contingency Item", at \$197,600 in 1978 and \$198,359 in 1979.

This change provides funding for a regional review panel upon passage of a medical malpractice bill.

12. On page III-146, Secretary of State, add a new item, "For administering the provisions of House Bill No. 285, Acts of the Sixty-fifth Legislature, Regular Session, 1977", at \$4,500 in 1978 and re-number accordingly.

This change provides funding for House Bill No. 285, Acts of the Sixty-fifth Legislature.

13. On page III-152, Office of State-Federal Relations, add a new item 3., "Energy Coordinator", at \$30,500 in 1978 and \$31,500 in 1979.

This change provides the agency with increased General Revenue Funding for energy and energy-related programs which had previously been funded through contracts.

14. On page III-152, Office of State-Federal Relations, add a new item 4.b., "Energy Analysts (4 NTE \$26,400 for 1978 - NTE \$27,300 for 1979) at \$105,600 in 1978 and \$109,200 in 1979.

This change provides the agency with increased General Revenue Funding for energy and energy-related programs which had previously been funded through contracts.

15. On page III-166, Water Quality Board, add a new sub-item 2.g., "For the Texas Coastal Protection Fund (Senate Bill No. 17, Acts of the Sixty-fourth Legislature, 1975)", at \$500,000 in 1978 and \$500,000 in 1979.

This change is to provide funding for an oil spill contingency.

16. On page III-174 immediately following the appropriations to the Water Well Drillers Board, add appropriation items for a new agency, "Department of Water Resources".

These appropriations are contingent on the passage of House Bill No. 1981 or Senate Bill No. 1139. These bills authorize the consolidation of the Water Development Board, the Water Quality Board, and the Water Rights Commission into a new Department of Water Resources.

ARTICLE IV

A. To add the following text on matters which are not included in either House or Senate versions of the bill:

1. On page IV-12, Texas Education Agency, add the following new rider paragraph:

It is the intent of the Legislature that the funds in the item County Administration (from Available School Fund) for the fiscal year ending August 31, 1979, shall only be used until the current terms of those now in office expire.

This new rider provides funding for county superintendents only until the terms of these officials expire in 1979.

2. On page IV-12, Texas Education Agency, add the following new rider paragraph:

Contingent upon the enactment of House Bill No. 750, Acts of the Sixty-fifth Legislature, Regular Session, 1977, there are hereby appropriated out of the Foundation School Fund, or out of the General Revenue Fund as may be necessary from time to time, additional funds which, together with the appropriations made specifically in this Act, will be sufficient to carry out the purposes of House Bill No. 750. Said appropriations made in the sentence immediately preceding include additional funds for the vocational education, comprehensive special education, statewide for visually handicapped, regional schools for the deaf, bilingual education and pre-school non-English programs which, together with the sums certain appropriated elsewhere in this Act for those purposes, will be sufficient to provide the salary increases authorized by House Bill No. 750 for personnel employed in vocational education, comprehensive special education, statewide for visually handicapped, regional schools for the deaf, bilingual education and pre-school non-English programs. If House Bill No. 750 provides amendments affecting the state textbook program, the additional transfer from the available school fund to the State Textbook Fund and the additional appropriation from the State Textbook Fund for textbooks made pursuant to House Bill No. 750 shall not exceed \$3,000,000 in the biennium ending August 31, 1979. If House Bill No. 750 provides for an accountability and/or an assessment of pupil performance program, the additional appropriation to the Texas Education Agency shall not exceed \$4,000,000 for the biennium ending August 31, 1979.

In the past, the Legislature has provided for funding new laws associated with the state's secondary school program. This rider continues that custom.

3. On page IV-22, Texas Public Junior Colleges—State Aid, add Houston Community College to the list of institutions appearing in the second line of the second rider paragraph on that page.

This change provides start-up funds for both academic and vocational programs at the new campus of Houston Community College.

4. On page IV-31, The University of Texas, add a final rider paragraph which reads as follows:

In the event federal anti-recession funds to Fund No. 458 exceeds the appropriations shown above, such excess amounts are hereby appropriated to The University of Texas at Austin and the Comptroller of Public Accounts is hereby directed to reduce the appropriations from the General Revenue Fund in corresponding amounts. It is further provided that none of the funds from Fund No. 458 are to be used for construction.

This change allows additional federal funds which become available to be applied and reduce General Revenue accordingly.

5. On page IV-37, The University of Texas Health Science Center at Dallas, add the following language at the end of the first paragraph on the page:

It is further provided that for each student by which the actual starting first-year class is less than that specified, there shall be reverted to the General Revenue Fund an amount of Twenty-five Thousand Dollars (\$25,000) from the

appropriations made to The University of Texas Health Science Center at Dallas. Said School of Medicine shall certify its enrollment of first-year undergraduate medical students as of September 15, to the Comptroller of Public Accounts, and the Comptroller shall adjust accordingly his appropriations accounts for said School of Medicine as necessary to conform to the provisions of this paragraph. Nothing in this paragraph shall be construed to require said School of Medicine to accept unqualified applicants.

This change insures that funding amounts available to the school are realistic in relation to the school's actual enrollment.

6. On page IV-38, The University of Texas Medical Branch at Galveston, add the following language at the end of the first rider paragraph on that page:

It is further provided that for each student by which the actual starting first-year class is less than that specified, there shall be reverted to the General Revenue Fund an amount of Twenty-five Thousand Dollars (\$25,000) from the appropriations made to The University of Texas Medical Branch at Galveston. Said School of Medicine shall certify its enrollment of first-year undergraduate medical students as of September 15, to the Comptroller of Public Accounts, and the Comptroller shall adjust accordingly his appropriations accounts for said School of Medicine as necessary to conform to the provisions of this paragraph. Nothing in this paragraph shall be construed to require said School of Medicine to accept unqualified applicants.

This change insures that funding amounts available to the school are realistic in relation to the school's actual enrollment.

7. On page IV-39, The University of Texas Medical Branch at Galveston, add the following language as a final rider paragraph:

The Board of Regents of The University of Texas System is hereby authorized to accept grants, donations, and gifts and to expend Permanent University Fund bond proceeds and Available University Funds for the purpose of remodeling and repairing the Graves Building.

This change authorizes the U.T. System to repair and remodel the Graves Building without requiring the appropriation of additional funds.

8. On page IV-48, Texas Agricultural Extension Service, add a new rider paragraph to read as follows:

Funds appropriated above in item 1e, "Salary Increase Funds", are contingent upon passage of Senate Bill No. 20, Sixty-fifth Legislature, Regular Session, and are to be expended only for the purpose of providing benefits for employees of the Texas Agricultural Extension Service equivalent to, and in lieu of, the benefits provided other state employees by Senate Bill No. 20.

This new rider specifies that funds appropriated in item 1e can be spent only on passage of Senate Bill No. 20. The funds would provide employees of the Texas Agricultural Extension Service with additional social security benefits equivalent to those benefits provided by Senate Bill No. 20 to state employees covered by the Employee's Retirement System.

9. On page IV-65, The University of Houston, add a final rider paragraph which reads as follows:

Out of the funds appropriated above in item 10.a. Scholarships, Fifteen Thousand Dollars (\$15,000) each fiscal year shall be allocated for the Minority Engineering Program.

This change provides for funding of the Minority Engineering Program out of Special Item funding for scholarships.

10. On page IV-67, University of Houston, Victoria Center, add the following language in lieu of the House line item language reading "Lease of Facilities (transferable only to Item 5)": "Lease of Facilities".

This change in language makes sums appropriated for lease of facilities transferable to all items.

11. On page IV-86, Southwest Texas State University, add a final rider paragraph which reads as follows:

Out of the funds appropriated above to Southwest Texas State University, an amount not to exceed Thirty-eight Thousand Dollars (\$38,000) each fiscal year may be expended for a Local Government Assistance Program.

This change allows Southwest Texas State University to fund the Local Government Assistance Program from any available funds without additional appropriation.

12. On page IV-92, Texas State Technical Institute, add the following rider paragraph in lieu of the last paragraph appearing on the page:

All income derived from the sale or lease of buildings, land, and improvements thereon, which is not exclusively used for improvements, maintenance, repair, or construction of additional facilities on state-owned property at the Mid-Continent Campus of Texas State Technical Institute located at Amarillo shall be deposited to the General Revenue Fund until the amount of such deposits shall total Three Million Dollars (\$3,000,000). "All income," as used hereinabove, shall mean all income over and above reasonable and necessary costs attributable to the production of such income. The foregoing shall not in any way prevent or preclude the use of land, buildings, or improvements as in-kind matching contributions for participation in any Federal programs permitting, requiring, or recognizing in-kind matching by Texas State Technical Institute.

This change varies from previous rider language in that it allows income derived from the sale or lease of buildings, land, and improvements to be used for construction of facilities at TSTI's Amarillo campus. Previous language required that such income be deposited to General Revenue.

13. On page IV-92, Texas State Technical Institute, add the following paragraph as a final rider:

Any unexpended balances in the Repairs and Rehabilitation of Buildings and Facilities or New Construction items, above, upon completion of the project(s), shall be expended for the removal of unusable, irreparable buildings and subsequent site cleaning at the Texas State Technical Institute Amarillo campus.

This change provides authorization for TSTI to use unexpended balances from line item 9 for site cleaning at the Amarillo campus, thereby eliminating the need for additional appropriations to accomplish this purpose.

14. On page IV-94, the State Rural Medical Education Board, add a final rider paragraph which reads as follows:

There is hereby reappropriated to the State Rural Medical Education Board, the unexpended balances appropriated in House Bill No. 377, Acts of the Sixty-fifth Legislature, Regular Session, for the biennium ending August 31, 1979.

This change provides that unexpended balances from the emergency appropriation in House Bill 377 can be used in the 1978-79 biennium.

15. On page IV-106, Special Provisions Relating Only to State Agencies of Higher Education, add a new rider which reads as follows:

Off-campus Instruction: Beginning September 1, 1978, general academic institutions may teach courses off-campus with the following restrictions:

1) The total number of semester credit hours generated by an institution through off-campus courses which exceeds ten percent (10%) of the total number of semester credit hours generated by the institutions during the fiscal year beginning September 1, 1978 shall be funded at 65 percent of formula funding.

2) All courses taught off-campus must be taught by a faculty member who teaches at least half-time on the main campus.

This change restricts funding for off-campus courses above the limit set in the rider and provides that at least a half-time faculty member will teach off-campus courses.

16. On page IV-104, add the following new paragraph which reads as follows:

FACULTY: WORKLOAD REQUIREMENTS. a. It is the intent of the Legislature that all general academic institutions of higher education shall arrange faculty staffing and faculty workloads to achieve maximum effectiveness in teaching effort in relation to student enrollment.

b. To insure that institutions make a concerted effort to achieve this stated intent within the 1978-79 biennium, information shall be developed by the Coordinating Board concerning faculty workloads and policies governing the application of these workloads and off-campus instruction in such form as may be requested by the presiding officers of both houses of the Legislature. This and other necessary information shall be transmitted to a joint committee consisting of three members of the Senate appointed by the Lieutenant Governor and three members of the House of Representatives appointed by the Speaker of the House of Representatives. The committee shall be given advisory assistance by the Commissioner of Higher Education, the chairman of the Committee of Governing Boards and Council of Presidents of Public Senior Colleges and Universities or their designees in developing recommended faculty workload guidelines for use by institutions of higher education. The committee shall prepare and transmit its recommended guidelines to the Sixty-sixth Legislature. In the event any institution fails to submit the required information, the Commissioner of Higher Education

shall certify the institution or institutions failing to comply to the Comptroller of Public Accounts. Upon certification, the Comptroller shall reduce the appropriations for faculty salaries for the institution by the amount specified below for such institution:

University of Texas at Arlington, \$278,815; University of Texas at Austin, \$2,502,935; University of Texas at Dallas, \$334,542; University of Texas at El Paso, \$54,807; University of Texas of the Permian Basin, \$166,131; University of Texas at San Antonio, \$124,226; Texas A&M University, \$500,559; Moody College of Marine Sciences and Maritime Resources, \$9,186; Prairie View A&M University, \$5,000; Tarleton State University, \$22,742; East Texas State University, \$78,719; East Texas State University at Texarkana, \$17,778; Texas A&I University at Corpus Christi, \$2,725; Texas A&I University at Kingsville, \$2,840; Texas A&I University at Laredo, \$5,000; University of Houston, \$2,380,939; University of Houston, Downtown Campus, \$20,457; University of Houston at Clear Lake City, \$147,805; University of Houston at Victoria Center, \$84,776; Lamar University \$21,216; Midwestern University, \$21,549; North Texas State University, \$250,012; Pan American University, \$66,527; Stephen F. Austin University, \$41,095; Texas Southern University, \$34,110; Texas Tech University, \$713,201; Texas Woman's University, \$5,000; Texas Eastern University, \$5,000; West Texas State University, \$123,284; Angelo State University, \$1,921; Sam Houston State University, \$95,821; Southwest Texas State University, \$70,033 and Sul Ross State University, \$5,000.

This change combines portions of the House and Senate rider and the Committee was also directed to study off-campus courses.

17. On page IV-106, Special Provisions, relating only to State Agencies of Higher Education, add a new rider paragraph as follows:

Unless otherwise indicated, it is declared to be legislative intent that the appropriation item "Repairs and Rehabilitation of Facilities" be expended as nearly as practicable in the manner summarized within the institution's appropriation bill pattern. It is provided, however, that such work may be done by the institution's own maintenance staff. Any unexpended balance in that appropriation as of August 31, 1978 is hereby reappropriated for Repairs and Rehabilitation of Buildings and Facilities during the fiscal year beginning September 1, 1978.

This change provides a uniform provision for all institutions that have major repairs and rehabilitation of facilities.

18. On page IV-106, Special Provisions Relating Only to State Agencies of Higher Education, add a new rider paragraph as follows:

Any unexpended balance in the appropriation item "Purchased Utilities", or "Utilities" for any general academic institution as of August 31, 1978 is hereby reappropriated for the same purpose during the fiscal year beginning September 1, 1978.

This new rider language provides universities with additional flexibility concerning the use of unexpended balances for Purchased Utilities. The Conference Committee considered this flexibility necessary due to its decision to restrict funds appropriated for Purchased Utilities in fiscal year 1979.

B. To allow amounts to exceed the larger or be less than the smaller of either the Senate or House version of the bill as follows:

1. On page IV-28, The University of Texas at Arlington, change item 4.a., "Faculty Salaries (non-transferable)", to \$14,384,231 in 1978 and \$14,874,842 in 1979 and in addition, change 4.b., "Departmental Operating Expense", to \$3,118,288 in 1978 and \$3,172,905 in 1979.

This change corrects an error in calculation and reduces the amounts below those shown in both House and Senate bills.

2. On page IV-30, The University of Texas at Austin, change item 4.b., "Departmental Operating Expense" to \$11,185,805 in 1978 and \$11,382,337 in 1979.

This change corrects an error in calculation and reduces the amounts below those shown in both House and Senate bills.

3. On page IV-38, The University of Texas Medical Branch at Galveston, change item 16 concerning medical branch hospitals to \$45,839,807 in 1978 and \$48,691,683 in 1979.

This change makes it possible for the school to pay nurses in its teaching hospital salaries that are competitive with the salaries available in private hospitals.

4. On page IV-44, Texas A&M University change item 4.b., "Departmental Operating Expense" to \$11,061,684 in 1978 and \$11,255,983 in 1979.

This change corrects an error in calculation and reduces the amounts below those shown in both House and Senate bills.

5. On page IV-53, Prairie View A&M University, change the following items: item 2, "General Institutional Expense," to \$146,974 in 1978 and \$150,004 in 1979; item 4.a., "Faculty Salaries (non-transferable)", to \$4,483,140 in 1978 and \$4,635,875 in 1979; item 6, "Library (non-transferable)", to in 1978 and \$4,635,875 in 1979; item 6, "Library (non-transferable)", \$518,966 in 1978 and \$527,957 in 1979; and item 8.a., "General Services (non-transferable)", to \$204,854 in 1978 and \$204,854 in 1979.

These changes update actual hours calculations and increase the amounts shown for the specified items over amounts in both bills.

6. On page IV-55, Tarleton State University, change item 4.a., "Faculty Salaries (non-transferable)" to \$2,408,891 in 1978 and \$2,491,645 in 1979.

This correction updates actual hours calculations and increases the amounts above those shown in both House and Senate bills.

7. On page IV-58, Texas A&I University, change item 4.a., "Faculty Salaries (non-transferable)" to \$5,499,448 in 1978 and item 6, "Library" to \$602,656 in 1979.

This change updates actual hours calculations and increases the amounts above those shown in both House and Senate bills.

8. On page IV-61, East Texas State University, change the amounts for "Estimated Other Educational and General Funds" to \$1,860,114 in 1978 and \$1,824,949 in 1979.

This change compensates for the University's overestimate of student enrollment by reducing the amounts for Estimated Other Educational and General Funds in relation to the University's actual declining enrollment.

9. On page IV-64, University of Houston, change the following items: item 1.b., "All Other General Administration", to \$3,723,189 in 1978 and \$3,811,176 in 1979; item 2, "General Institutional Expense", to \$821,152 in 1978 and \$836,997 in 1979; and item 6, "Library (non-transferable)" to \$3,121,676 in 1978 and \$3,176,629 in 1979.

These changes update actual hours calculations and decrease the amounts below those shown in both House and Senate bills.

10. On page IV-67, University of Houston, Victoria Center, change the amount for item 4.a., "Faculty Salaries (non-transferable)", to \$759,079 in 1979.

This change increases the 1979 amount above the amount in either House or Senate bills and is a result of the Conference Committee's decision to modify the House bill's provision restricting off-campus courses.

11. On page IV-68, Lamar University, change the following items: item 4.a., "Faculty Salaries (non-transferable)" to \$9,604,049 in 1978 and \$9,930,462 in 1979; and item 4.b., "Departmental Operating Expense", to \$2,012,570 in 1978 and \$2,047,886 in 1979.

These changes correct an error in calculation and reduce the amounts below those shown in both House and Senate bills.

12. On page IV-69, Midwestern State University, change the following items: item 4.a., "Faculty Salaries (non-transferable)", to \$3,179,809 in 1978 and \$3,288,910 in 1979; and item 4.b., "Departmental Operating Expense", to \$493,898 in 1978 and \$502,530 in 1979.

These changes correct an error in calculation and reduce the amounts below those shown in both House and Senate bills.

13. On page IV-70, North Texas State University, change item 4.b., "Departmental Operating Expense" to \$3,742,110 in 1978 and \$3,807,828 in 1979.

This change corrects an error in calculation and reduces the amount below those shown in both House and Senate bills.

14. On page IV-72, Pan American University, change the following items: item 4.a., "Faculty Salaries (non-transferable)", to \$6,281,598 in 1978 and \$6,496,305 in 1979; and item 4.b., "Departmental Operating Expense", to \$917,270 in 1978 and \$933,176 in 1979.

These changes correct an error in calculation and reduce the amounts below those shown in both House and Senate bills.

15. On page IV-73, Stephen F. Austin State University, change the following items: item 4.a., "Faculty Salaries (non-transferable)" to \$8,944,948 in 1978; and item 4.b., "Departmental Operating Expense" to \$1,699,104 in 1978.

These changes correct errors in calculations and reduce the amounts below those shown in both House and Senate bills.

16. On page IV-74, Texas Southern University, change the following items: item 4.a., "Faculty Salaries (non-transferable)" to \$7,750,724 in 1978 and \$8,015,028 in 1979; and item 4.b., "Departmental Operating Expense" to \$1,447,186 in 1978 and to \$1,472,559 in 1979.

This change corrects an error in calculation and reduces the amounts below those shown on both House and Senate bills.

17. On page IV-75, Texas Tech University, change item 4.b., "Departmental Operating Expense", to \$4,635,927 in 1978 and \$4,717,785 in 1979.

This change corrects an error in calculation and reduces the amounts below those shown in both House and Senate bills.

18. On page IV-78, Texas Woman's University, change the following items: item 4.a., "Faculty Salaries (non-transferable)" to \$11,147,169 in 1978 and \$11,526,997 in 1979; and item 4.b., "Departmental Operating Expense" to \$2,347,444 in 1979.

This change corrects an error in calculation and reduces the amounts below those shown in both House and Senate bills.

19. On page IV-81, West Texas State University, change the following items: item 4.a., "Faculty Salaries (non-transferable)" to \$5,111,233 in 1978 and \$5,285,482 in 1979; and item 4.b., "Departmental Operating Expense", to \$935,097 in 1978 and \$951,443 in 1979.

These changes correct an error in calculation and reduce the amounts below those shown in both House and Senate bills.

20. On page IV-82, Angelo State University, change the following items: item 4.a., "Faculty Salaries (non-transferable)" to \$3,620,981 in 1978 and \$3,743,926 in 1979; and item 4.b., "Departmental Operating Expense" to \$608,906 in 1978 and \$619,447 in 1979.

This change corrects an error in calculation and reduces the amounts below those shown in both House and Senate bills.

21. On page IV-84, Sam Houston State University, change item 4.b., "Departmental Operating Expense", to \$1,370,982 in 1978.

This change corrects an error in calculation and reduces the amount below that is shown in both House and Senate bills.

22. On page IV-85, Southwest Texas State University, change the following items: item 4.a., "Faculty Salaries (non-transferable)", to \$10,832,457 in 1978 and \$11,199,716 in 1979; and item 4.b. "Departmental Operating Expense", to \$1,797.825 in 1978 and \$1,828.879 in 1979.

These changes correct errors in calculations and reduce the amounts below that shown in both House and Senate bills.

23. On page IV-87, Sul Ross State University, change item 4.a. "Faculty Salaries (non-transferable)", to \$1,954,089 in 1978 and \$2,020,544 in 1979.

This change increases the amount above those amounts in either House or Senate bills and is a result of the Conference Committee's decision to modify the House bill's provision restricting off-campus courses.

24. On page IV-87, Sul Ross State University, change the amounts for "Estimated Other Educational and General Funds" to \$375,364 in 1978 and \$382,789 in 1979.

This change compensates for the university's overestimate of student enrollment by reducing the amounts for Estimated Other Educational and General Funds in relation to the university's actual declining enrollment.

C. To allow the addition of the following items not included in either the House or Senate version of the bill:

1. On page IV-30, add to the Method of Financing for the University of Texas at Austin, "Federal Fund No. 458" at \$6,400,000 in 1978.

These are federal funds which became available to the State and must be appropriated to some program or the funds will revert to the Federal Government.

2. On page IV-48, Texas Agricultural Extension Service, item 1, "Administration", add a new subitem as follows: "Salary Increase Funds" at \$760,000 in 1979.

This change makes it possible for employees of the agency to receive the same social security benefits as those adopted by the Conference Committee for employees covered under the Employee's Retirement System.

D. To change the following items of appropriations which appear in the House and Senate version in identical amounts:

1. On page IV-29, University of Texas at Arlington, increase "Estimated Other Educational and General Funds" to \$1,646,500 in 1978 and \$1,648,500 in 1979.

This change corrects for an underestimate of local funds available to the institution. The decision to increase local funds reduces General Revenue appropriations to the institution by a like amount.

2. On page IV-30, University of Texas at Austin, increase "Estimated Other Educational and General Funds" to \$9,810,100 in 1978 and \$9,810,100 in 1979.

This change corrects for an underestimate of local funds available to the institution. The decision to increase local funds reduces General Revenue appropriations to the institution by a like amount.

3. On page IV-31, University of Texas at Dallas, increase "Estimated Other Educational and General Funds" to \$2,642,500 in 1978 and \$2,714,500 in 1979.

This change corrects for an underestimate of local funds available to the institution. The decision to increase local funds reduces General Revenue appropriations to the institution by a like amount.

4. On page IV-33, University of Texas at El Paso, increase "Estimated Other Educational and General Funds" to \$1,746,697 in 1978 and \$1,744,561 in 1979.

This change corrects for an underestimate of local funds available to the institution. The decision to increase local funds reduces General Revenue appropriations to the institution by a like amount.

5. On page IV-34, The University of Texas of the Permian Basin, increase "Estimated Other Educational and General Funds" to \$139,500 in 1978 and \$139,500 in 1979.

This change corrects for an underestimate of local funds available to the institution. The decision to increase local funds reduces General Revenue appropriations to the institution by a like amount.

6. On page IV-36, University of Texas Health Science Center at Dallas, decrease item 9.a., "Purchased Utilities (non-transferable)", to \$4,597,406 in 1979.

This change reflects an across-the-board cut of 25 percent for all purchased utilities in Article IV.

7. On page IV-37, University of Texas Health Science Center at Dallas, increase "Estimated Income - Educational Units" to \$3,056,500 in 1978 and \$3,062,000 in 1979.

This change corrects for an underestimate of local funds available to the institution. The decision to increase local funds reduces General Revenue appropriations to the institution by a like amount.

8. On page IV-37, University of Texas Medical Branch at Galveston, decrease item 9.a., "Purchased Utilities (non-transferable)" to \$5,910,750 in 1979.

This change reflects an across-the-board cut of 25 percent for all purchased utilities in Article IV.

9. On page IV-38, University of Texas Medical Branch at Galveston, increase "Estimated Income - Educational Units" to \$1,800,200 in 1978 and \$1,850,700 in 1979.

This change corrects for an underestimate of local funds available to the institution. The decision to increase local funds reduces General Revenue appropriations to the institution by a like amount.

10. On page IV-39, University of Texas Health Science Center at Houston, decrease item 9.a., "Purchased Utilities (non-transferable)", to \$4,394,082 in 1979.

This change reflects an across-the-board reduction of 25 percent for all purchased utilities in Article IV.

11. On page IV-40, University of Texas Health Science Center at Houston, increase Income from Educational Units, estimated, to \$1,931,000 in 1978 and \$1,932,000 in 1979.

This change corrects for an underestimate of local funds available to the institution. The decision to increase local funds reduces General Revenue appropriations to the institution by a like amount.

12. On page IV-41, The University of Texas Health Science Center at San Antonio, decrease item 9.a., "Purchased Utilities (non-transferable)", to \$2,730,510 in 1979.

This change reflects an across-the-board reduction of 25 percent for all purchased utilities in Article IV.

13. On page IV-41, The University of Texas Health Science Center at San Antonio, increase Estimated Income - Educational Units to \$1,644,500 in 1978 and \$1,644,500 in 1979.

This change corrects for an underestimate of local funds available to the institution. The decision to increase local funds reduces General Revenue appropriations to the institution by a like amount.

14. On page IV-42, The University of Texas System Cancer Center, decrease item 5.a., "Purchased Utilities (non-transferable)", to \$4,722,900 in 1979.

This change reflects an across-the-board reduction of 25 percent for all purchased utilities in Article IV.

15. On page IV-71, Texas College of Osteopathic Medicine, decrease item 10.a., "Purchased Utilities (non-transferable)", to \$299,965 in 1979.

This change reflects an across-the-board reduction of 25 percent for all purchased utilities in Article IV.

16. On page IV-77, the Texas Tech University School of Medicine, decrease item 9.a., "Purchased Utilities (non-transferable)", to \$2,158,783 in 1979.

This change reflects an across-the-board reduction of 25 percent for all purchased utilities in Article IV.

ARTICLE V

A. To change, alter, or amend text which is not in disagreement in the following aspects:

1. On page V-28, Method of Salary Payments Subsection b, delete the words "longevity" and substitute "hazardous duty" therefor. This change is required because of the change of wording from longevity pay to hazardous duty pay in language connected to separate agencies.

2. On page V-38, second paragraph dealing with mileage reimbursement for executive heads and key officials traveling in personal or leased aircraft, change the amount of reimbursement from 21 cents per mile to 23 cents per mile. This change is made to increase the mileage rate for this class of state officials in the same proportion that the basic mileage rates were adjusted.

3. On page V-37, third paragraph of subsection e, change the rate of per diem from \$23 to \$30. This rate was not changed when the basic rate was changed and will allow the two provisions to be consistent.

B. To add the following text on matters which are not included in either House or Senate versions of the bill:

1. On page V-53, insert the following paragraph in Sec. 70:

Provided, however, that notwithstanding any other provisions of this Act, funds appropriated by this Act may be expended for payment of judgements entered in causes of action arising under the Texas Tort Claims Act, Article 6252-19 of Vernon's Civil Statutes or Article 6252-26 in Vernon's Civil Statutes as amended by Senate Bill 37, Acts of the Sixty-fifth Legislature, 1977. This change allows funds to be used for settling judgements and to defend public officials who may be sued.

2. On page V-40, add the following to the authorization for short-term lease of aircraft: Board of Regents, State Senior Colleges, Coastal and Marine Council, House of Representatives and Senate. This change will allow the named agencies to expend funds for short-term lease of aircraft.

3. On page V-53, add the following to Sec. 66 dealing with agency publications, Texas Parks and Wildlife Magazine, Department of Agriculture and Commission on Alcoholism publications. This change will exempt these publications from the terms of the provisions so that needed information may be distributed.

The resolution was read and was adopted.

SENATE RULE 103 SUSPENDED

On motion of Senator Aikin and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider **H.B. 1** today.

SENATE RULE 103 SUSPENDED

On motion of Senator Adams and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider **S.C.R. 107** today.

SENATE RULE 103 SUSPENDED

On motion of Senator Schwartz and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider the following bills today:

H.B. 905
H.B. 1784
H.B. 1089
H.B. 1214

SENATE RULE 103 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Human Resources might consider the following bills today:

H.B. 321
H.B. 1242
H.B. 2172

CONFERENCE COMMITTEE REPORT SENATE BILL 152

Senator Meier submitted the following Conference Committee Report:

Austin, Texas
May 23, 1977

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 152** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MEIER
ADAMS
MENGDEN
WILLIAMS
On the part of the Senate

NABERS
CEVERHA
VON DOHLEN
On the part of the House

The Conference Committee Report was again filed with the Secretary of the Senate.

SENATE BILL 545 WITH HOUSE AMENDMENT

Senator Adams called **S.B. 545** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Substitute the following for S.B. No. 545:

A BILL TO BE ENTITLED

AN ACT

conveying 3.69 miles of the Texas State Railroad to the City of Palestine, with the income from the property to be paid to the Parks and Wildlife Department; making provisions relative to the transfer and operation of the property; providing for reversion of title to the State of Texas under certain conditions; abolishing the Board of Managers of the Texas State Railroad; and repealing Chapter 58, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6550(a), Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. The Board of Managers of the Texas State Railroad is abolished, and Chapter 58, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6550(a), Vernon's Texas Civil Statutes), is repealed.

Sec. 2. The legislature hereby grants, sells, and conveys and by this Act does grant, sell, and convey to the City of Palestine all of the interest of the State of Texas in the right-of-way and trackage of the Texas State Railroad from Mile Post 0.0 at Palestine, extending eastwardly to Mile Post 3.69, in consideration of the benefit to the public welfare and the agreement of the City of Palestine to develop the property for industrial purposes, with the income from the property to be paid to the Parks and Wildlife Department for the benefit of the Palestine terminal of the Texas State Railroad Park.

Sec. 3. On or before June 1 of each year, the City of Palestine shall furnish a report to the comptroller of public accounts showing the financial condition of the property for the preceding calendar year and shall transmit all income after expenses to the state treasury to be deposited in a special fund for use by the Parks and Wildlife Department for the benefit of the Palestine terminal of the Texas State Railroad Park.

Sec. 4. If the City of Palestine shall fail or cease to develop for industrial purposes the property conveyed by this Act, with the income after expenses paid to the Parks and Wildlife Department as provided in Section 3 of this Act, all right, title, and interest granted and conveyed by this Act shall, without further action by any of the parties, revert to the State of Texas, unless such reversion is waived by the legislature during the biennium following the happening of the conditions of reversion.

Sec. 5. It is the duty of the present Board of Managers of the Texas State Railroad to transfer and deliver possession of the Texas State Railroad right-of-way and trackage from Mile Post 0.0 at Palestine, extending eastwardly to Mile Post 3.69, to the governing body of the City of Palestine on the effective date of this Act, together with all equipment, supplies, books, records, documents, and property of any kind belonging to the railroad.

Sec. 6. A copy of this Act, duly certified by the secretary of state, may be filed of record by the county clerk in the deed records of Anderson County.

Sec. 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Adams moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 113 WITH HOUSE AMENDMENTS

Senator Mengden called **S.B. 113** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend **S.B. 113** by striking Sec. 3 in its entirety and substituting therefore the following:

Sec. 3. (a) The Council is composed of the following members"

(1) three citizens of the State of Texas who are not licensed to practice law, appointed by the governor for six-year terms, with the advice and consent of the senate, and with the governor giving due consideration to geographical areas of the state and their population diversities in making appointments;

(2) three incumbent, elected prosecuting attorneys to be elected by the membership of the Texas District and County Attorneys Association for six-year terms, one of whom shall be a county attorney, one of whom shall be a district attorney, and one of whom shall be a criminal district attorney; and

(3) three ex officio members who shall be the President of the Texas District and County Attorneys Association, the President of the State Bar Association or his designee, and the Presiding Judge of the Court of Criminal Appeals or his designee."

Floor Amendment No. 1

Amend **S.B. 113** by adding a new Section 12 and renumbering the sections. The new Section 12 shall read as follows:

"Section 12. Should the voters of Texas approve a constitutional amendment giving the Judicial Qualifications Commission jurisdiction over prosecuting attorneys covered by this act, then the powers, duties, and authority granted by this act to the Texas Prosecutors Coordinating Council shall be vested in the Judicial Qualifications Commission to the extent that said powers, duties, and authority do not conflict with the powers, duties, and authorities of the Commission established by law and the Texas Constitution. If such powers, duties, and authority are transferred from the Texas Prosecutors Coordinating Council to the Judicial Qualifications Commission, then the existence of the Texas Prosecutors Coordinating Council shall terminate."

The amendments were read.

Senator Mengden moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 113** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Mengden, Lombardino, Harris, Ogg and Kothmann.

SENATE JOINT RESOLUTION 44 WITH HOUSE AMENDMENTS

Senator Farabee called **S.J.R. 44** from the President's table for consideration of the House amendments to the resolution.

The President laid the resolution and the House amendments before the Senate.

Floor Amendment No. 1

Amend **S.J.R. 44** by striking all below the resolving clause and insert the following:

Section 1. That Article VIII of the Texas Constitution be amended by adding Section 1-g to read as follows:

"Section 1-g. (a) Notwithstanding the requirements of Section 1 of this article or of Section 14 of Article VIII, the legislature may, subject to the limitations provided herein, authorize cities and towns to issue tax increment bonds, the proceeds of which shall be used to finance the redevelopment of blighted [commercial] areas, and the payment of which shall be provided from tax increments, as such term is defined by the legislature.

"(b) Neither tax revenues, utility revenues, nor revenues from any services of any city or town or the state shall be used to pay any bonds issued pursuant to the authority conferred under this section, nor shall such bonds give rise to a charge against the general credit or taxing powers of any city or town or the state."

Sec. 2. Legislation passed in anticipation of the adoption of this amendment shall not be invalid solely because of its anticipatory nature.

Sec. 3. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1978, at which election all ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment to give the legislature the power to authorize cities and towns to issue bonds to finance the redevelopment of blighted [commercial] areas and prohibiting any city or town from granting its money or lending its credit for such purposes."

Floor Amendment No. 2

Amend the caption of **S.J.R. 44** by striking the word "downtown." and substituting "1-g" for "1-f".

The amendments were read.

Senator Farabee moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Parker.

SENATE BILL 1152 WITH HOUSE AMENDMENT

Senator Mauzy called **S.B. 1152** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend S.B. No. 1152 by striking the quoted Section 9.35 and substituting the following:

"Section 9.35. **PRIMA FACIE EVIDENCE OF DEADLY INTENT.** In a prosecution for a criminal homicide or an assaultive offense where the homicide or assault takes place to prevent capital murder, murder, voluntary or involuntary manslaughter, deadly assault on a peace officer, or aggravated assault by use of a deadly weapon, proof that the victim used or exhibited a deadly weapon in a manner calculated to cause death or serious bodily injury is prima facie evidence that the victim intended to cause death or serious bodily injury."

The amendment was read.

Senator Mauzy moved to concur in the House amendment.

The motion prevailed.

CONFERENCE COMMITTEE ON HOUSE BILL 117

Senator Mauzy called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 117** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 117** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Mauzy, Braecklein, Doggett, Jones of Harris and Kothmann.

SENATE RULE 74a SUSPENDED

On motion of Senator Meier and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 151**.

SENATE BILL 151 WITH HOUSE AMENDMENT

Senator Meier called **S.B. 151** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Substitute the following for S.B. No. 151

**A BILL TO BE ENTITLED
AN ACT**

relating to a definition of "combination" in relation to organized crime and to the offense of engaging in organized criminal activity; creating certain offenses; providing penalties and venue for prosecution; providing testimonial immunity; excluding certain defenses; amending the Penal Code by adding Title 11; amending Subsections (b) and (d), Section 15.04, Penal Code; adding Article 13.21 to the Code of Criminal Procedure, 1965, as amended.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. The Penal Code is amended by adding Title 11 to read as follows:

"TITLE 11. ORGANIZED CRIME

'CHAPTER 71. ORGANIZED CRIME

"Sec. 71.01. **DEFINITIONS.** In this chapter, 'combination' means five or more persons who engage in criminal conspiracy as defined in Section 15.02(a) and (b) of this code, although:

- "(1) participants may not know each other's identity;
- "(2) membership in the combination may change from time to time; and
- "(3) participants may stand in a wholesaler-retailer or other arm's-length relationship in illicit distribution operations.

"Sec. 71.02. **ENGAGING IN ORGANIZED CRIMINAL ACTIVITY.** (a) A person commits an offense if he participates in a combination and he commits, with intent to further the criminal objectives of the combination, one or more of the following:

- "(1) murder, arson, robbery, burglary, theft, kidnapping, or forgery;
- "(2) any felony gambling offense;
- "(3) an offense under Section 43.03, 43.04, or 43.05 of this code;
- "(4) unlawful manufacture, transportation, or sale of firearms or prohibited weapons; or
- "(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug or unlawful acquiring or obtaining possession of a controlled substance or dangerous drug by forgery, fraud, misrepresentation, or deception.

"(b) An offense under this section is the same degree of felony or class of misdemeanor as the underlying offense listed in Subsection (a)(1)-(5).

"Sec. 71.03. **DEFENSES EXCLUDED.** It is no defense to prosecution under Section 71.02 of this code that:

- "(1) one or more other members of the combination are not criminally responsible for the underlying offense;
- "(2) one or more other members of the combination have been acquitted, have not been prosecuted or convicted, have been convicted of a different offense, or are immune from prosecution;
- "(3) the actor has been charged with or acquitted or convicted of any offense listed in Section 71.02(a) of this code; or

“(4) once the initial combination of five or more persons is formed there is a change in the number or identity of persons in the combination as long as two or more persons remain in the combination and are pursuing the original criminal objectives of the combination.

“Sec. 71.04. TESTIMONIAL IMMUNITY. (a) A party to an offense under this chapter may be required to furnish evidence or testify about the offense.

“(b) No evidence or testimony required to be furnished under the provisions of this section nor any information directly or indirectly derived from such evidence or testimony may be used against the witness in any criminal case, except a prosecution for aggravated perjury or contempt.”

Sec. 2. Subsections (b) and (d), Section 15.04, Penal Code, are amended to read as follows:

“(b) It is an affirmative defense to prosecution under Section 15.02, ~~or~~ 15.03, or 71.02 of this code that under circumstances manifesting a voluntary and complete renunciation of his criminal objective the actor countermanded his solicitation or withdrew from the conspiracy before commission of the object or underlying offense and took further affirmative action that prevented the commission of the object or underlying offense.”

“(d) Evidence that the defendant renounced his criminal objective by abandoning his criminal conduct, countermanding his solicitation, or withdrawing from the conspiracy before the criminal offense was committed and made substantial effort to prevent the commission of the object or underlying offense shall be admissible as mitigation at the hearing on punishment if he has been found guilty of criminal attempt, criminal solicitation, or criminal conspiracy; and in the event of a finding of renunciation under this subsection, the punishment shall be one grade lower than that provided for the offense committed.”

Sec. 3. Chapter 13, Code of Criminal Procedure, 1965, as amended, is amended by adding Article 13.21 to read as follows:

“Article 13.21. ORGANIZED CRIMINAL ACTIVITY. The offense of engaging in organized criminal activity may be prosecuted in any county in which any act is committed to effect an objective of the combination.”

Sec. 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Meier moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 151 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Meier, Mengden, Adams, Williams and Traeger.

SENATE BILL 887 ON THIRD READING

On motion of Senator Patman and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

S.B. 887, Relating to public access to certain information in the custody of the Consumer Credit Commissioner; amending Article 3.11, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-3.11, Vernon's Texas Civil Statutes).

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 8.

Yeas: Adams, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Jones of Harris, Jones of Taylor, Mauzy, Meier, Mengden, Moore, Ogg, Patman, Schwartz, Sherman, Snelson, Truan.

Nays: Aikin, Hance, Kothmann, Lombardino, Longoria, Santiesteban, Traeger, Williams.

Absent: McKnight, Parker.

(Senator Schwartz in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 311 ON SECOND READING

On motion of Senator Braecklein and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 311, Relating to increasing the penalty for enticing a child out of the county of his parents' residence and prohibiting solicitation of a child; amending Section 25.04, Penal Code, and Chapter 25, Penal Code, by adding a new Section 25.06; and declaring an emergency.

The bill was read second time.

Senator Braecklein offered the following amendment to the bill:

Amend **C.S.S.B. 311** by striking Section 2 and substituting in lieu thereof the following:

Sec. 2. CHAPTER 25, Penal Code, is amended by adding a new Section to read as follows:

~~"Sec. 25.06. Unlawful Solicitation of a child.~~

(a) It shall be unlawful for any person with lascivious intent to solicit, entice, allure, persuade, or invite, or attempt to solicit, entice, allure, persuade or invite, any child under fourteen (14) years of age to enter any vehicle, room, house, office or other place for the purpose of proposing to such child the performance of an act of sexual intercourse or an act which constitutes the offense of sodomy or for the

purpose of proposing the fondling or feeling of the sexual or genital parts of such child or the breast of such child, if the child be a female, or for the purpose of committing an aggravated assault on such child, or for the purpose of proposing that such child fondle or feel the sexual or genital parts of such person.

(b) An offense under this section is a Class A misdemeanor unless the actor takes the child out of the county of residence of the parent, guardian, or person standing in the stead of the parent or guardian of such child, in which event it is a felony of the third degree."

The amendment was read and was adopted.

On motion of Senator Braecklein and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 311 ON THIRD READING

Senator Braecklein moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 311** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: McKnight, Parker.

(President in Chair)

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent: McKnight.

MESSAGE FROM THE HOUSE

House Chamber
May 24, 1977

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 20, Relating to payment by the state of the state employee's portion of social security taxes. (With substitute)

S.B. 151, Relating to organized crime. (With substitute)

S.J.R. 19, Amending the constitution to allow assessments by commodity producers boards. (With amendment)

S.J.R. 30, Amending the constitution relating to the name, powers, and proceedings of the Judicial Qualifications Commission and others. (With amendment)

S.C.R. 105, Requesting the Governor to return **H.B. 1660** to the Senate for further consideration.

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

RECESS

On motion of Senator Aikin the Senate at 11:55 o'clock a.m. took recess until 1:30 o'clock p.m. today.

AFTER RECESS

The Senate met at 1:30 o'clock p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

House Chamber
May 24, 1977

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

All necessary rules suspended, and the House Concurred in Senate amendments to **H.B. No. 1424** by a record vote, 129 Ayes, 7 noes.

All necessary rules suspended, and the House Concurred in Senate amendments to **H.B. No. 2142** by a Non Record Vote.

The House refused to concur in Senate amendments to **H.B. No. 2141** and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House conferees: Semos, Blanton, Vaughan, Maloney, Cain.

All necessary rules suspended, and the House Concurred in Senate amendments to **H.B. No. 409** by a Non Record Vote.

S.J.R. 45, Amending the constitution to provide for additional associate justices on a court of civil appeals. (With amendment)

S.J.R. 49, Amending the constitution to allow the legislature to authorize certain banks to exercise banking and discounting privileges by use of electronic devices or machines. (With amendment)

H.C.R. 179, Congratulating Texas Southern University NAIA basketball champions.

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill No. 113.

House conferees: Grant, Close, Tony Garcia, Chavez, McFarland.

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill No. 970. House Conferees: Bird, Smith, Martin of Mitchell, Laney, Price.

S.B. 343, Relating to retirement benefits of judges who retire not later than age 70. (With amendment)

S.B. 917, Authorizing contracts with certain financial institutions for deferred compensation for employees of political subdivisions.

S.B. 1078, Relating to tax valuation of property owned by certain nonprofit organizations for benefit of their members. (With substitute)

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

H.C.R. 172
H.C.R. 174
H.B. 467
H.B. 1033
H.B. 1271
H.B. 1441
H.B. 1442
H.B. 1743
H.B. 1856
H.B. 1898

HOUSE BILL 1076 ON SECOND READING

Senator Meier asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1076, A bill to be entitled An Act relating to the appraisal of certain land, the use of which is limited to recreational, park, or open space purposes by deed restriction or voluntary restriction under certain circumstances; providing for the validity, filing, and enforcement of voluntary restrictions on land; providing for the reassessment of certain taxes; providing a tax penalty.

There was objection.

Senator Meier then moved to suspend the regular order of business and take up **H.B. 1076** for consideration at this time.

The motion prevailed by the following vote: Yeas 19, Nays 5.

Yeas: Adams, Aikin, Andujar, Brooks, Creighton, Farabee, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, Meier, Ogg, Santiesteban, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Braecklein, Doggett, Mauzy, Patman, Schwartz.

Absent: Clower, Harris, Jones of Taylor, McKnight, Mengden, Moore, Parker.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time and was passed to third reading.

RECORD OF VOTES

Senators Braecklein, Mauzy and Patman asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1076 ON THIRD READING

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1076** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 21, Nays 5.

Yeas: Adams, Aikin, Andujar, Brooks, Creighton, Farabee, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, Meier, Mengden, Moore, Ogg, Santiesteban, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Braecklein, Doggett, Mauzy, Patman, Schwartz.

Absent: Clower, Harris, Jones of Taylor, McKnight, Parker.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1158 ON SECOND READING

On motion of Senator Braecklein and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1158, A bill to be entitled An Act amending The Securities Act, as amended (Articles 581-1 et seq., Vernon's Texas Civil Statutes); by amending Section 28, relating to service of process by the commissioner, his agents, the sheriff,

or constable and treatment of certain confidential information by the commissioner; by amending Section 35, relating to various fees charged by the commissioner; repealing Subdivision (2)a.8. of Subsection B. and Subdivision (1)h. of Subsection C., Section 7 relating respectively to application fees for a notification registration and to application fees for a coordination registration; providing for severability; and declaring an emergency.

The bill was read second time and was passed to third reading.

HOUSE BILL 1158 ON THIRD READING

Senator Braecklein moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1158** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Clower, Harris, McKnight, Moore.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1384 ON SECOND READING

Senator Jones of Taylor moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1384, A bill to be entitled An Act relating to the organization, operation, and regulation of certain nonprofit health service companies; amending Chapter 20, Insurance Code, as amended.

The motion prevailed by the following vote: Yeas 23, Nays 4.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Farabee, Hance, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Mauzy, Meier, Mengden, Ogg, Parker, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Williams.

Nays: Doggett, Longoria, Patman, Truan.

Absent: Clower, Harris, McKnight, Moore.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time and was passed to third reading.

RECORD OF VOTES

Senators Doggett, Truan, Longoria, Patman and Hance asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1384 ON THIRD READING

Senator Jones of Taylor moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1384** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Farabee, Hance, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, Meier, Mengden, Ogg, Parker, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Williams.

Nays: Doggett, Patman, Truan.

Absent: Harris, McKnight, Meier.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Hance, Patman and Doggett asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1688 ON SECOND READING

Senator Santiesteban moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1688, A bill to be entitled An Act exempting wholesalers of liquor and wine from obtaining resale certificates on sales to retailers holding permits or licenses authorizing the sale of such beverages; amending Section (F), Article 20.021, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended.

The motion prevailed by the following vote: Yeas 19, Nays 8.

Yeas: Andujar, Braecklein, Brooks, Creighton, Doggett, Hance, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Meier, Mengden, Ogg, Parker, Patman, Santiesteban, Traeger, Truan.

Nays: Adams, Aikin, Farabee, Mauzy, Schwartz, Sherman, Snelson, Williams.

Absent: Clower, Harris, McKnight, Moore.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time and was passed to third reading by the following vote: Yeas 19, Nays 8.

Yeas: Andujar, Braecklein, Brooks, Creighton, Doggett, Hance, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Meier, Mengden, Ogg, Parker, Patman, Santiesteban, Traeger, Truan.

Nays: Adams, Aikin, Farabee, Mauzy, Schwartz, Sherman, Snelson, Williams.

Absent: Clower, Harris, McKnight, Moore.

HOUSE BILL 1484 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1484, A bill to be entitled An Act relating to the tax rate on certain cigars; amending Article 8.02, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended.

The bill was read second time and was passed to third reading.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1484 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1484** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 1.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Doggett, Farabee, Hance, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, McKnight, Meier, Mengden, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Traeger, Truan, Williams.

Nays: Mauzy.

Absent: Clower, Harris, Moore, Snelson.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1226 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1226, A bill to be entitled An Act relating to creating the Minority Business Enterprise Division of the Texas Industrial Commission and to abolishing the Office of Minority Business Enterprise.

The bill was read second time and was passed to third reading.

HOUSE BILL 1226 ON THIRD READING

Senator Truan moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1226** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Clower, Harris, Moore.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 432 ON SECOND READING

On motion of Senator Snelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 432, A bill to be entitled An Act relating to persons in certain cities who are eligible to participate in the police officers' pension system; amending Section 1, Subsection (b) of Section 2, Subsection (c) of Section 3, and Section 25, and adding Subsections (d), (e), and (f) to Section 3, Chapter 254, Acts of the 52nd Legislature, 1951 (Article 6243j, Vernon's Texas Civil Statutes).

The bill was read second time and was passed to third reading.

HOUSE BILL 432 ON THIRD READING

Senator Snelson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 432** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Clower, Harris, Moore.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 190 ON SECOND READING

Senator Jones of Harris asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 190, A bill to be entitled An Act exempting from the Motor Vehicle Sales Tax the receipts from the sale or rental and the use of certain church vehicles; amending Article 6.09, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, by adding Section (3).

There was objection.

Senator Jones of Harris then moved to suspend the regular order of business and take up **H.B. 190** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Doggett, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, McKnight, Meier, Mengden, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Farabee, Jones of Taylor, Mauzy.

Absent: Clower, Harris, Moore.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time and was passed to third reading.

HOUSE BILL 190 ON THIRD READING

Senator Jones of Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 190** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Doggett, Farabee, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, McKnight, Meier, Mengden, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Jones of Taylor, Mauzy.

Absent: Clower, Harris, Moore.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Doggett, Farabee, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, McKnight, Meier, Mengden, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Jones of Taylor, Mauzy.

Absent: Clower, Harris, Moore.

CONFERENCE COMMITTEE ON HOUSE BILL 2141

Senator Mauzy called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2141** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2141** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Mauzy, Clower, Braecklein, Harris and Truan.

HOUSE BILL 1860 ON SECOND READING

On motion of Senator Braecklein and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1860, A bill to be entitled An Act relating to the time a corporation forfeits its right to do business in this state for failure to pay or report franchise taxes; relating to the personal liability of directors and officers for certain debts of corporations whose right to do business has been forfeited; amending Articles 12.14 and 12.15, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended.

The bill was read second time and was passed to third reading.

HOUSE BILL 1860 ON THIRD READING

Senator Braecklein moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1860** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Clower.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time.

By unanimous consent, Senator Braecklein offered the following committee amendment to the bill:

Amend C.S.H.B. No. 1860, by deleting the underlined wording on page 2, lines 6, 7, and 8, and substituting the following: "September 15 of each year or, when an initial tax report or payment is required, on or before ninety (90) days after the time the initial report and payment is required,"

The committee amendment was read and was adopted.

By unanimous consent, Senator Braecklein offered the following committee amendment to the bill:

Amend C.S.H.B. No. 1860 by deleting the underlined wording on page 3, lines 5, 6, 7, 8, and 9, and substituting the following:

"However, any officer or director may avoid liability if he shows that the debt was created (1) over his objection, or (2) without his knowledge, if the exercise of reasonable diligence to acquaint himself with the affairs of the corporation would not have revealed the intention to create the debt."

The committee amendment was read and was adopted.

On motion of Senator Braecklein and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was finally passed.

HOUSE BILL 2152 ON SECOND READING

On motion of Senator Meier and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2152, A bill to be entitled An Act relating to the election of members of the board of trustees of a certain independent school district; amending Sections 7, 8, and 9 of Chapter 230, Acts of the 39th Legislature, Special Laws, Regular Session, 1925, as amended.

The bill was read second time.

Senator Meier offered the following amendment to the bill:

Amend H.B. No. 2152 by striking everything after the enacting clause and substituting the following:

Section 1. Chapter 23, Texas Education Code, as amended, is amended by adding Section 23.023 to read as follows:

"Sec. 23.023. **DISTRICTS WITH 66,000 OR MORE SCHOLASTICS.** (a) Any independent school district, whether created by special general law, with 66,000 or more students in average daily attendance for the 1975-1976 school year or thereafter shall be under the management and control of a board of nine trustees elected in accordance with the provisions of this section.

"(b) At all elections held after December 31, 1977, seven members of the board of trustees shall be elected by the qualified voters of single-member districts and two members, who shall be the president and vice-president of the board, shall be elected at large.

"(c) At least 120 days before the school board election to be held in April, 1978, the board shall divide the school district into seven trustee districts which are compact, contiguous, and contain as nearly as practicable an equal population according to the last preceding federal decennial census.

"(d) Except as provided for the initial election under single-member districts, a candidate seeking to represent a trustee district must reside in the district he seeks to represent, and vacates his office if he ceases to reside in that district. A candidate for president or vice-president may seek election to only one position and shall be designated on the official ballot according to the position for which he seeks election. A candidate for president or vice-president must reside in the school district, and vacates his office if he ceases to reside in the district.

"(e) The candidate receiving a majority of the votes cast in each position is elected. If no candidate receives a majority of the votes cast for that position, the board shall order a runoff to be held on the third Saturday in April immediately following the first election, and only the names of the two candidates receiving the highest number of votes in the first election shall be listed on the ballot. The candidate receiving the majority of the votes cast in the runoff election is elected.

"(f) A member of the board may resign his position to seek election to the office of president or vice-president.

"(g) At least 120 days before an election to be held in the second year following the calendar year in which the federal decennial census is taken, the board shall redivide the district into seven trustee districts if the census data indicate that the population of the most populous district exceeds the population of the least populous district by more than 10 percent.

"(h) In districts with seven board members on January 1, 1978, members of the board serving on that date shall serve for the remainder of their terms, except those choosing to resign. At the election held in April, 1978, four members shall be elected—the president, vice-president, and two regular members. The president and vice-president then elected shall serve for a term of two years. The other two members then elected shall draw lots so that one will serve for a term of two years, and one will serve for a term of four years. The five members of the board holding the offices for which there was no election shall draw lots to determine which trustee district they will represent during the remainder of their terms. Thereafter, all members shall be elected to staggered terms of four years.

"(i) A school district having 66,000 or more students average daily attendance for the 1975-1976 school year or thereafter which has previously adopted single-member district representation may continue to operate under that plan.

"(j) This section does not apply to a district with 66,000 or more students in average daily attendance for the 1975-1976 school year or thereafter all or part of which is located in a city with a population of between 600,000 and 700,000 according to the 1970 federal census.

"(k) A school district with less than 66,000 students in average daily attendance for the 1975-1976 school year that later becomes subject to this section shall begin electing trustees from single-member districts in accordance with this section no later than the first regular election following the next calendar year in which the federal census is taken. A school district subject to this section whose average daily attendance drops below 66,000 students shall continue to be governed by this section."

Sec. 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 3. The legislature finds:

(1) that in the school districts with the largest number of students, the at-large election of all members of the board of trustees increases the number of constituents represented by each trustee and hinders communication between the trustee and the constituents, and therefore makes the representation of those constituents less effective;

(2) that in the school districts with the largest number of students, the at-large election of all members of the board of trustees may work to dilute the voting power of identifiable ethnic groups;

(3) that in structuring solutions to the dilution of ethnic group voting power, the federal courts have decided that preference should be given to some form of single-member district representation; and

(4) that the need for increasing the effectiveness of political representation, preserving the voting power of all ethnic groups, complying with the preference for single-member district representation, and assuring the participation of all people in the political process creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

MEIER
ANDUJAR

The amendment was read and was adopted.

On motion of Senator Meier and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 2152 ON THIRD READING

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2152** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Clower.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 53 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 53, A bill to be entitled An Act relating to the authority of the attorney general to issue an opinion at the request of a city attorney; amending Article 4399, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

The bill was read second time.

**VOTE ON SUSPENSION OF REGULAR ORDER
ON HOUSE BILL 53 RECONSIDERED**

On motion of Senator Creighton, the vote by which the regular order was suspended to take up House Bill 53 was reconsidered by the following vote: Yeas 20, Nays 9.

Yeas: Adams, Aikin, Andujar, Braecklein, Creighton, Farabee, Hance, Harris, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Patman, Schwartz, Sherman, Snelson.

Nays: Brooks, Doggett, Jones of Harris, Ogg, Parker, Santiesteban, Traeger, Truan, Williams.

Absent: Clower, Jones of Taylor.

HOUSE BILL 364 ON SECOND READING

On motion of Senator Hance and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 364, A bill to be entitled An Act relating to advances for travel expenses of state officers and employees; amending Subsection c, Section 3, Travel Regulations Act of 1959, as amended (Article 6823a, Vernon's Texas Civil Statutes).

The bill was read second time and was passed to third reading.

HOUSE BILL 364 ON THIRD READING

Senator Hance moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 364** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Schwartz.

Absent: Clower.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

SENATE BILL ON FIRST READING

By unanimous consent, the following bill was introduced, read first time and referred to the Committee indicated:

S.B. 1336 by Snelson Intergovernmental Relations
Relating to the boundaries of the Real-Edwards Conservation and Reclamation District; adding Section 1A to Chapter 341, Acts of 56th Legislature, Regular Session, 1959 (Article 8280-233, Vernon's Texas Civil Statutes).

MOTION TO PLACE HOUSE BILL 1121 ON SECOND READING

Senator McKnight moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1121, A bill to be entitled An Act relating to the maximum weight of certain vehicles operated on public highways.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members present): Yeas 17, Nays 12.

Yeas: Adams, Aikin, Braecklein, Brooks, Farabee, Hance, Harris, Kothmann, Lombardino, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Traeger, Williams.

Nays: Andujar, Doggett, Jones of Harris, Jones of Taylor, Longoria, Mauzy, Parker, Patman, Schwartz, Sherman, Snelson, Truan.

Absent: Clower, Creighton.

SENATE RULE 74a SUSPENDED

On motion of Senator Ogg and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 569**.

SENATE BILL 569 WITH HOUSE AMENDMENT

Senator Ogg called **S.B. 569** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend **S.B. 569** by striking the word "shall" and substituting in its place the word "may" at the following places in the bill:

line 23, page 3; line 20, page 5; and line 22, page 5.

The amendment was read.

Senator Ogg moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 569** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ogg, Williams, Brooks, Jones of Harris and Mengden.

SENATE RULE 103 SUSPENDED

On motion of Senator Snelson and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider **S.B. 1336** today.

CONFERENCE COMMITTEE REPORT HOUSE BILL 712

Senator Jones of Harris submitted the following Conference Committee Report.

Austin, Texas
May 24, 1977

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 712** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

JONES OF HARRIS
DOGETT
JONES OF TAYLOR
BROOKS
MOORE
On the part of the Senate

CARTWRIGHT
ORR
RAINS
KEESE
BUSH
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**MOTION TO CONCUR IN HOUSE AMENDMENTS TO SENATE BILL
157**

Senator Meier moved that the Senate concur in House amendments to Senate Bill 157. (The amendments having been read earlier today).

Question - Shall the Senate concur in House amendments to the bill?

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 176 (Meier): Extending congratulations to The Honorable Tom J. Vandergriff.

H.C.R. 177 (Doggett): Extending congratulations to Westlake High School Madrigal Singers.

H.C.R. 179 (Brooks): Extending congratulations to Texas Southern University NAIA Basketball Champions.

S.R. 729 - by Jones of Taylor, Harris: Extending congratulations to Kimberly Smith.

S.R. 730 - by Jones of Taylor, Harris: Extending congratulations to Jerrald Smith.

S.R. 731 - by Doggett: Extending congratulations to Timothy H. Graves.

S.R. 732 - by Doggett: Extending congratulations to Russell Rummel.

S.R. 733 - by Doggett: Extending congratulations to Kara Anderson.

S.R. 734 - by Doggett: Extending congratulations to Paddee Schiemenz.

S.R. 735 - by Doggett: Extending congratulations to Jeannette Coufal.

S.R. 737 - by Clower: Extending congratulations to Diana Latrelle Goodman.

S.R. 738 - by Clower: Extending congratulations to Jay Hawes.

S.R. 739 - by Aikin: Extending welcome to Hardy England, Philip Cecil, Bill Young, Bill Howard, Andrew Fasken and Kerry Swcatt.

ADJOURNMENT

On motion of Senator Aikin the Senate at 3:00 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow.

APPENDIX

Sent to Governor

(May 24, 1977)

S.C.R. 82	S.C.R. 91	S.C.R. 93
S.J.R. 5	S.J.R. 48	S.B. 186
S.B. 190	S.B. 249	S.B. 334
S.B. 398	S.B. 468	S.B. 626
S.B. 759	S.B. 831	S.B. 865
S.B. 883	S.B. 919	S.B. 941
S.B. 699	S.B. 1102	S.B. 586
S.B. 1188	S.B. 943	S.B. 961
S.B. 974	S.B. 977	S.B. 986
S.B. 1033	S.B. 1043	S.B. 1055
S.B. 1079	S.B. 1103	S.B. 1143
S.B. 1153	S.B. 1164	S.B. 1252

SEVENTY-FIFTH DAY
(Wednesday, May 25, 1977)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

A quorum was announced present.

The Reverend John Ogden, First United Methodist Church, Richardson, Texas, offered the invocation as follows:

Eternal Spirit, on this warm day in May, in this moment of reflection, we know that simple words cannot possibly express our deep sense of gratitude. We are a blessed people, who have a rich and meaningful heritage. Often, our success is made possible by the tireless efforts of those leaders who have gone before us. Help each one of us to remember the past, so we will not make the same blunders, or follow the wrong impulses.

Give us a clear vision, so we can see the needs of humanity. Too often, we are a nation blinded by colorful illusions, who see only what we want to see. Though we be a people of great knowledge, the obvious escapes us. Give us courage, so we will not back away from conflict, or hide from controversial issues. The right word, spoken at the proper moment, can turn the tide of history. Give us patience. We know we are a restless people. We plant a seed today and fully expect to see the tree